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नई दिल्ली, मार्च 13—मार्च 19, 2005 शनिवार/फाल्गुन 22—फाल्गुन 28, 1926

No. 12]

NEW DELHI, MARCH 13—MARCH 19, 2005 SATURDAY/PHALGUNA 22—PHALGUNA 28, 1926

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक-शिकायत और पेंशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)
नई दिल्ली, 9 मार्च, 2005

का.आ. 995.—केंद्रीय सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मध्य प्रदेश राज्य सरकार के गृह (पुलिस) विभाग की अधिसूचना सं. एक. 12-02/2005/बी(1)2 दिनांक 3-02-2005 द्वारा प्राप्त मध्य प्रदेश राज्य सरकार की सहमति से दिल्ली विशेष पुलिस स्थापना के सदस्यों और अधिकारिता का विस्तार संपूर्ण मध्य प्रदेश राज्य पर पुलिस स्टेशन देवास कोतवाली जिला देवास में दर्ज हुए अपराध सं. 869/2000 दिनांक 9-5-2003 अंतर्गत धारा 302 भारतीय दंड संहिता के सम्बंध में और उपर्युक्त अपराध से संबंधित अथवा संशक्त प्रयत्न, दुष्क्रिया और घटयंत्र तथा वैसे ही संव्यवहार के अनुक्रम में अथवा उन्हीं तथ्यों से उद्भत किया गया अथवा किए गए किसी अन्य अपराध अथवा अपराधों का अन्वेषण/अनुसंधान करने के लिए करती हैं।

[सं. 228/21/2005-ए.वी.डी.-II]

शुभा ठाकुर, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC
GRIEVANCES AND PENSIONS
(Department of Personnel and Training)
New Delhi, the 9th March, 2005

S. O. 995.—In exercise of the powers conferred by Sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Madhya Pradesh, Home (Police) Department, communicated vide Notification No. F-12-02/2005/B/(1)2 dated 03-02-2005 hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Madhya Pradesh for investigation of Case Crime No. 869/2000 U/s 302 IPC of Police Station Dewas Kotwali Distt. Dewas and attempts, abetments, conspiracies in relation to or in connection with the said offences, and any other offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/21/2005-AVD -II]
SHUBHA THAKUR, Under Secy.

वित्त मंत्रालय

(आर्थिक कार्य विभाग)

नई दिल्ली, 7 मार्च, 2005

का.आ. 996.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियमावली, 1976 के नियम 10 के उपनियम (4) के अनुसरण में वित्त मंत्रालय, आर्थिक कार्य विभाग के प्रशासनिक नियंत्रण में स्थित ओरिएन्टल इंश्योरेंस कंपनी लिमिटेड के निम्नलिखित कार्यालयों, जिनके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है :—

कंपनी का नाम—दि ओरिएन्टल इंश्योरेंस कंपनी लिमिटेड

I. क्षेत्रीय कार्यालय-चण्डीगढ़

1. मंडल कार्यालय, होशियारपुर
2. मंडल कार्यालय-2, अमृतसर
3. मंडल कार्यालय-1, अमृतसर
4. मंडल कार्यालय-3, चण्डीगढ़

II. क्षेत्रीय कार्यालय-भुवनेश्वर

1. क्षेत्रीय कार्यालय, भुवनेश्वर
2. क्षेत्रीय प्रशिक्षण केन्द्र, भुवनेश्वर
3. मंडलीय कार्यालय, भुवनेश्वर
4. नगर शाखा कार्यालय-I, भुवनेश्वर
5. नगर शाखा कार्यालय-II, भुवनेश्वर
6. मंडलीय कार्यालय, कटक
7. नगर शाखा कार्यालय-II, कटक
8. मंडलीय कार्यालय, बरहमपुर
9. शाखा कार्यालय, जेपुर
10. मंडलीय कार्यालय, राउरकेला
11. शाखा कार्यालय, राउरकेला
12. मंडलीय कार्यालय, सम्बलपुर
13. मंडल कार्यालय, बालासोर

III. क्षेत्रीय कार्यालय-इंदौर

1. मंडल कार्यालय क्रं.-3, इंदौर
2. मंडल कार्यालय क्रं.-4, इंदौर
3. शहर शाखा कार्यालय क्रं.-5, इंदौर
4. मंडल कार्यालय क्रं.-5, इंदौर
5. मंडल कार्यालय क्रं.-2, रायपुर
6. शहर शाखा कार्यालय क्रं.-5, जबलपुर
7. शाखा कार्यालय, छिन्दवाड़ा
8. मंडल कार्यालय, बिलासपुर
9. शाखा कार्यालय, शिवपुरी
10. मंडल कार्यालय, खण्डवा
11. मंडल कार्यालय, सागर
12. मंडल कार्यालय, रत्लाम

IV. क्षेत्रीय कार्यालय-दिल्ली

1. नगर शाखा कार्यालय-18
2. नगर शाखा कार्यालय-नरेला
3. नगर शाखा कार्यालय-पश्चिम विहार
4. नगर शाखा कार्यालय-3
5. मंडल कार्यालय-22
6. शाखा कार्यालय-एनईपीजैड नोएडा

V. क्षेत्रीय कार्यालय-गुवाहाटी

1. शाखा कार्यालय, दुरा

VI. क्षेत्रीय कार्यालय-लखनऊ

1. प्रत्यक्ष अभिकर्ता, शाखा कार्यालय (म.का.न.-2, लखनऊ के अंतर्गत)

[सं. 11013/1/2005-हि.का.क.]

रामचरण लाल मीणा, उप निदेशक (राजभाषा)

MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 7th March, 2005

S. O. 996.—In pursuance of Sub Rule (4) of Rule 10 of the Official Language (use for official purposes of the Union) Rules, 1976, the Central Government, hereby, notifies the following offices of the Oriental Insurance Co. Ltd., under the administrative control of Ministry of Finance, Department of Economic Affairs, whereof more than 80% of staff have acquired working knowledge of Hindi.

Name of the Company :

The Oriental Insurance Co. Ltd., New Delhi.

I. Regional Office—Chandigarh

1. Divisional Office, Hoshiarpur
2. Divisional Office-2, Amritsar
3. Divisional Office-1, Amritsar
4. Divisional Office-3, Chandigarh

II. Regional Office-Bhubaneswar

1. Resional Office, Bhubaneswar
2. Resional Training Centre, Bhubaneswar
3. Divisional Office, Bhubaneswar
4. City Branch Office-I, Bhubaneswar
5. City Branch Office-II, Bhubaneswar
6. Divisional Office, Cuttak
7. City Branch Office-II, Cuttak
8. Divisional Office, Barahampur
9. Branch Office, Jepur
10. Divisional Office, Raurkela
11. Branch Office, Raurkela
12. Divisional Office, Sambalpur
13. Divisional Office, Balasore

III. Regional Office-Indore

1. Divisional Office-III, Indore
2. Divisional Office-IV, Indore
3. City Branch Office-V, Indore
4. Divisional Office-V, Indore
5. Divisional Office-II, Raipur
6. City Branch Office-V, Jabalpur
7. Branch Office- Chhindawara
8. Divisional Office, Bilaspur
9. Divisional Office, Shivapur
10. Divisional Office Khandawa
11. Divisional Office, Sagar
12. Divisional Office, Ratlam

IV. Regional Office-Delhi

1. City Branch Office-18
2. City Branch Office, Narela
3. City Branch Office, Paschim Vihar
4. City Branch Office-3
5. Divisional Office-22
6. Branch Office-NEPZ, NOIDA

V. Regional Office-Guwahati

1. Branch Office-Tura

VI. Regional Office-Lucknow

1. Direct Agent, Branch Office (under Divisional Office-2), Lucknow.

[No. 11013/1/2005-HIC]

R.L. MEENA, Dy. Director (OL)

(राजस्व विभाग)

केन्द्रीय उत्पाद सुल्क, आयुक्तालय

कोलकाता, 7 फरवरी, 2005

सं. 01/2005-सी.श. (एन टी)

का.आ. 997.—भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली की अधिसूचना सं. 33/94-सी.श. (एन टी) दिनांक 01-07-94 यथा पम. एफ. (डीआर) परिपत्र सं. 31/2003-सी.श. दिनांक 07-04-2003 के साथ पठनीय सीमानुल्क अधिनियम, 1962 की धारा 9 में प्रदत्त शक्तियों का प्रयोग करते हुए, यथा भारत सरकार, वित्त मंत्रालय, फलता विशेष आर्थिक छेत्र के विकास आयुक्त के द्वारा स्वीकृत, पश्चिम बंगाल के महामाया ताला, फरसाबाद, गढ़िया, बिला-24 परगना (दक्षिण) को, एतद्वारा सीमित प्रयोजनों के लिए 100% विधातोन्युखी उपक्रम के रूप में एक भण्डारण स्टेशन घोषित किया जाता है।

[सं.सं. V(13)1-सीईटेक/क्रोल-VII/2005/1488-1712(बी)]

बोर्डेन थायर, आयुक्त

(Department of Revenue)

(OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE)

Kolkata, the 7th February, 2005

No. 01/2005-CUSTOMS (NT)

S.O. 997.—In exercise of the powers conferred under Section 9 of the Customs Act, 1962 read with Notification No. 33/94-Cus. (NT) dated 1-7-94 of Government of India, Ministry of Finance, Department of Revenue, New Delhi and M.F. (D.R.) Circular No. 31/2003-Customs dated 07-04-2003, Mahamayatala, Farabad, Garia, Distt.-24 Parganas (South) in the State of West Bengal is hereby declared as a warehousing station for the limited purpose of setting up 100% Export Oriented Undertaking as approved by the Development Commissioner, Falta Special Economic Zone, Ministry of Commerce, Government of India, Kolkata.

[C.No. V(13)1-CE/TECH/KOL-VII/2005/1488-1712(B)]

BROJEN THAMAR, Commissioner

• स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

नई दिल्ली, 7 मार्च, 2005

का.आ. 998.—दन्त विकितसक अधिनियम, 1948 (1948 का 16) की धारा 10 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय दन्त विकितसक परिषद् से परामर्श करने के बाद एतद्वारा उक्त अधिनियम की अनुसूची के भाग-I में निम्नलिखित संशोधन करती है, नामतः—

2. बाबा फरीद यूनिवर्सिटी ऑफ हैल्थ साइंसेज, फरीदकोट (पंजाब) से संबंधित दन्त विकितसक अधिनियम, 1948 (1948 का 16) की अनुसूची के भाग-I में क्रम सं. 53 के सामने कालम 2 तथा 3 की मौजूदा प्रविष्टियों में देश भगत डैंटल कालेज एंड हास्पिटल, मुक्तसर (पंजाब) के संबंध में निम्नलिखित प्रविष्टियां इसके अंतर्गत सन्निविष्ट की जाएंगी :—

“XI देशभगत डैंटल कालेज एंड हास्पिटल, मुक्तसर (पंजाब)

(i) बैचलर ऑफ डैंटल सर्जरी बी.डी.एस.,

(यदि 5 जून, 2004 को बाबा फरीद यूनिवर्सिटी ऑफ हैल्थ अयथा इसके बाद प्रदत्त हो) साइंसेज, फरीदकोट (पंजाब) ”

[सं. बी.-12017/17/99-पी.एस.]

ए. के. सिंह, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health)

New Delhi, the 7th March, 2005

S.O. 998.—In exercise of the powers conferred by Sub-section (2) of Section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with Dental Council of India, hereby, makes the following amendments in Part-I of the Schedule to the said Act, namely :—

2. In the existing entries of column 2 & 3 against Serial No. 53, in part-I of the Schedule to the Dentists Act,

1948 (16 of 1948) pertaining to Baba Farid University of Health Sciences, Faridkot (Punjab), the following entries in respect of Desh Bhagat Dental College & Hospital, Muktsar (Punjab) shall be inserted thereunder :—

"XII. Desh Bhagat Dental College & Hospital, Muktsar (Punjab)"

(i) Bachelor of Dental Surgery
(When granted on or after 5th June, 2004) B.D.S.,
Baba Farid University of Health Sciences,
Faridkot (Punjab)"
[No. V-12017/17/99-PMS]
A.K. SINGH, Under Secy.

नई दिल्ली, 7 मार्च, 2005

का.आ. 999.—दत्त चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 10 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार भारतीय दत्त चिकित्सा परिषद् से परामर्श करने के बाद एतद्वारा उक्त अधिनियम को अनुसूची के भाग—I में निम्नलिखित संशोधन करती है, नामत :—

2. बाबा फरीद यूनिवर्सिटी ऑफ हैंट्य साइंसेज, फरीदकोट (पंजाब) से संबंधित दत्त चिकित्सक अधिनियम, 1948 (1948 का 16) की अनुसूची के भाग—I में क्रम सं. 53 के सामने कालम 2 तथा 3 की भौजूद प्रविष्टियों में राष्ट्रीय डैंटल कालेज एंड हास्पिटल, डेरा बस्सी, (पंजाब) के संबंध में निम्नलिखित प्रविष्टियां इसके अंतर्गत सन्तुष्टि की जाएंगी :—

"XII नेशनल डैंटल कालेज एंड हास्पिटल, डेरा बस्सी, (पंजाब)

(i) बैचलर ऑफ डेंटल सर्जरी बी.डी.एस.,
(यदि 10 और 11 जून, 2004 के बाबा फरीद यूनिवर्सिटी ऑफ हैंट्य अधारा इसके बाद प्रदत्त हो) साइंसेज, फरीदकोट (पंजाब)"
[सं. ची.-12017/18/2000-पी.एम.एस.]
ए.के. सिंह, अधर सचिव

New Delhi, the 7th March, 2005

S.O. 999.—In exercise of the powers conferred by Sub-section (2) of Section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with Dental Council of India, hereby, makes the following amendments in Part-I of the Schedule to the said Act, namely :—

2. In the existing entries of column 2 & 3 against Serial No. 53, in part-I of the Schedule to the Dentists Act, 1948 (16 of 1948) pertaining to Baba Farid University of Health Sciences, Faridkot (Punjab), the following entries in respect of National Dental College & Hospital, Dera Bassi, (Punjab) shall be inserted thereunder :—

"XII. National Dental College & Hospital, Dera Bassi, (Punjab)"

(i) Bachelor of Dental Surgery
(When granted on or after 10th & 11th June, 2004) B.D.S.,
Baba Farid University of Health Sciences,
Faridkot (Punjab)"
[No. V-12017/18/2000-PMS]
A.K. SINGH, Under Secy.

सर्व मंत्रालय

नई दिल्ली, 11 मार्च, 2005

का.आ. 1000.—केंद्रीय रेशम बोर्ड अधिनियम, 1948 (1948 का 61) की धारा 4 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार एतद्वारा उक्त अधिनियम के प्रावधानों के अध्यादीन इस अधिसूचना की तिथि से तीन घंटों की अवधि के लिए केंद्रीय रेशम बोर्ड के सदस्यों के रूप में कार्य करने के लिए निम्नलिखित व्यक्तियों का नामांकन अधिसूचित करती है।

1. श्रीमती जी. लता कृष्ण राव, आईएस, सचिव, वायिष्य एवं उद्योग विभाग, कर्नाटक सरकार;
2. श्री अरविन्द जन्मु, रेशम उत्पादन विकास आयुक्त और निदेशक, रेशम उत्पादन, कर्नाटक सरकार
3. श्री हेमन्त नर्जीरी, आईएस, सचिव हथकरघा वस्त्र एवं रेशम उत्पादन विभाग, असम सरकार, दिसपुर।

[फ.सं. 25012/56/99-रेशम]

बंसत प्रताप सिंह, संयुक्त सचिव

MINISTRY OF TEXTILES

New Delhi, the 11th March, 2005

S.O. 1000.—In exercise of powers conferred by Sub-section (3) of Section 4 of the Central Silk Board Act, 1948 (61 of 1948), the Central Government hereby notifies the nomination of the following persons to serve as members of the Central Silk Board for a period of three years from the date of this notification subject to the provisions of the said Act.

1. Smt. G. Latha Krishan Rao, IAS, Secretary, Commerce and Industries Department, Govt. of Karnataka; Nominated by the Central Government under Section 4(3) (d) of the Act.
2. Shri Arvind Jammu, Commissioner for Sericulture Development and Director of Sericulture, Government of Karnataka -do-
3. Shri Hemanta Narzary, IAS, Secretary, Handloom Textile & Sericulture Department, Govt. of Assam, Dispur. Nominated by the Central Government under Section 4(3) (g) of the Act.

[F. No. 25012/56/99-Silk]

BASANT PRATAP SINGH, Jr. Secy.

रेल मंत्रालय

(रेलवे बोर्ड)

नई दिल्ली, 10 मार्च, 2005

का.आ. 1001.—राष्ट्रपति, संविधान के अनुच्छेद 309 के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, रेल सेवा (पेंशन) नियम, 1993 का और संशोधन करने के लिए निम्नलिखित नियम बनाते हैं, अर्थात् :—

1. (1) इन नियमों का संक्षिप्त नाम रेल सेवा (पेंशन) (द्वितीय संशोधन) नियम, 2005 है।

(2) ये 30 सितंबर, 2000 से प्रवृत्त हुए समझे जाएंगे।

2. रेल सेवा (पेंशन) नियम, 1993 में, नियम 53 के पश्चात् निम्नलिखित नियम अंतःस्थापित किया जाएगा, अर्थात् :—

“53-क किसी रेल विभाग के केंद्रीय स्वायत्त निकाय या पब्लिक सैक्टर उपक्रम में संपरिवर्तन के परिणामस्वरूप आमेलन पर पेंशन के संदाय के लिए शर्तें :—

(1) रेलवे के किसी विभाग के पब्लिक सैक्टर उपक्रम या किसी स्वायत्त निकाय में संपरिवर्तन पर उस विभाग के सभी रेल सेवक किसी प्रतिनियुक्ति भरते के बिना अन्यत्र सेवा के निबंधनों पर, यथास्थिति, उस पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय में सामूहिक रूप से उस समय तक अंतरित हो जाएंगे, जिस समय तक ये, यथास्थिति, उक्त उपक्रम या निकाय में आमेलित की जाएं और ऐसे अंतरित रेल सेवक, यथास्थिति, पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय में ऐसी तारीख से आमेलित हो जाएंगे जो सरकार अधिसूचित की जाए।

(2) सरकार, अंतरित रेल सेवकों को रेलवे में प्रतिवर्तित होने या, यथास्थिति, पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय में स्थायी आमेलन प्राप्त करने का विकल्प अनुज्ञात करेगी।

(3) उपनियम (2) में निर्दिष्ट विकल्प का प्रयोग प्रत्येक अंतरित रेल सेवक द्वारा ऐसी रीति में और ऐसी अवधि के भीतर किया जाएगा जो सरकार द्वारा विनिर्दिष्ट की जाए।

(4) रेल सेवकों का पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय के कर्मचारियों के रूप में स्थायी आमेलन उस तारीख से प्रभावी होगा जिसको उनके विकल्प सरकार द्वारा स्वीकार कर लिए गए हों और ऐसी स्वीकृति की तारीख से ही ऐसे कर्मचारी रेलवे सेवक नहीं रहेंगे और उनके बारे में यह समझा जाएगा कि वे रेल सेवा से सेवानिवृत्त हो गए हैं।

(5) पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय में रेल सेवकों के आमेलन पर वे पद, जिन्हें वे ऐसे आमेलन से पूर्व सरकार में धारित कर रहे थे, समाप्त हो जाएंगे।

(6) उन कर्मचारियों को जिन्होंने रेल सेवा में प्रतिवर्तित होने का विकल्प दिया है, रेलवे के अधिशेष प्रक्रोष्ट के माध्यम से पुनः तैनात किए जाएंगे।

(7) ऐसे कर्मचारी जिनके अंतर्गत अस्थाई कर्मचारी हैं किंतु नैमित्तिक भजदूर नहीं हैं, और जिन्होंने पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय में स्थायी आमेलन के लिए विकल्प दिया है, आमेलन की तारीख से ही, यथास्थिति, पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय के नियमों और विनियमों या उसकी उपविधियों द्वारा शासित होंगे।

(8) ऐसा स्थायी रेल सेवक जो, यथास्थिति, पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय के कर्मचारी के रूप में आमेलित कर लिया है, उसके द्वारा रेलवे में और पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय में कोई गई संयुक्त सेवा के आधार पर उसके, यथास्थिति, पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय से सेवानिवृत्ति होने के समय यथाप्रवृत्त इन नियमों के अधीन पेंशन या कुटुम्ब पेंशन की संगणना करने के लिए सूत्र के अनुसार पेंशनिक फादरों के लिए पात्र होगा।

स्पष्टीकरण :—पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय से अधिवर्धिता पर किसी आमेलित कर्मचारी की पेंशन या कुटुम्ब पेंशन की रकम की संगणना यथास्थिति, उसी रीति में की जाएगी, जिसमें रेलवे के सेवक की उसी दिन अधिवर्धिता पर सेवानिवृत्ति के मामले में की जाती है।

(9) उपनियम (8) के अधीन किसी कर्मचारी की पेंशन उसके अंतिक दस मास के औसत वेतन के आधार पर संगणित की जाएगी।

(10) कर्मचारी, यथास्थिति, पेंशन या कुटुम्ब पेंशन के अंतिक, औद्योगिक महंगाई भरते के पैटर्न पर महंगाई राहत के पात्र होंगे।

(11) पेंशन और कुटुम्ब पेंशन के फायदे अस्थायी अंतरित रेल सेवकों को, उनके पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय में पुष्ट हो जाने के पश्चात् ही उपलब्ध होंगे।

(12) किसी पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय में आमेलित कोई स्थाई रेल सेवक या ऐसा कोई अस्थाई रेलवे सेवक, जिसकी पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय में उसके आमेलन की पश्चात्वर्ती पुष्टि कर दी गई है, सरकार और स्वायत्त निकाय पब्लिक सैक्टर उपक्रम में कुल मिलाकर दस वर्ष की अर्हक सेवा पूरी करने के पश्चात् स्वैच्छिक सेवानिवृत्ति लेने के लिए पात्र होगा और वह संयुक्त अर्हक सेवा के आधार पर अनुपाततः पेंशनिक फायदों के लिए पात्र होगा।

(13) सरकार एक न्यास के रूप में पेंशन निधि का सृजन करेगी और आमेलित कर्मचारियों की पेंशनिक फायदे ऐसी पेंशन निधि से संदर्भ किए जाएंगे।

(14) सदस्य कार्मिक, रेलवे बोर्ड, न्यासी बोर्ड का अध्यक्ष होगा और उस बोर्ड के अंतर्गत वित्त, कार्मिक, लोक शिकायत

और पेंशन, श्रम मंत्रालयों, संबद्ध प्रबलक सैक्टर उपक्रम या स्वायत्र निकाय और उनके कर्मचारियों के प्रतिनिधि तथा सरकार द्वारा नामनिर्देशित संसंगत क्षेत्र के विशेषज्ञ होंगे।

(15) उस प्रक्रिया और रीति का अवधारण जिसमें पेंशनिक फायदे पेंशन निधि से मंजूर और संवितरित किए जाने हैं सरकार द्वारा न्यासी बोर्ड की सिफारिश पर किया जाएगा।

(16) सरकार अपने पेंशनिक दायित्व का, पेंशन निधि में एक बार संदाय के रूप में एकमुश्त राशि, रेल सेवक के उसके पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय में आमेलन की तारीख तक की गई सेवा के लिए अनुपातिक पेंशन या सेवा उपदान और सेवानिवृत्ति उपदान का संदाय करके निर्वहन करेगी।

(17) पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय द्वारा पेंशनिक फायदों के संदाय के कारण वित्तीय दायित्व में हिस्सा बटाने की रीति सरकार द्वारा अवधारित की जाएगी।

(18) अनुपातिक पेंशन की एकमुश्त रकम रेल सेवा (पेंशन का संराशीकरण) नियम 1993, के परिशिष्ट में मान तात्त्विकों के अनुरूप अवधारित की जाएगी।

(19) पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय, यथास्थिति, पेंशन निधि में पेंशनिक अंशदान संबद्ध कर्मचारियों द्वारा उस उपक्रम या निकाय के अधीन की गई सेवा की अवधि के लिए ऐसी दरों से करेगी जो न्यासी बोर्ड द्वारा अवधारित की जाए जिससे पेंशन निधि आत्मनिर्भर हो जाएगी।

(20) यदि किसी वित्तीय या परिचालन कारण से न्यास पेंशन निधि से अपने दायित्व का पूर्णतया निर्वहन करने में असमर्थ है और पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय भी उस कमी को पूरा करने की रिंस्ट्रिक्शन में नहीं हैं, तो सरकार ऐसे व्यय को पूँछ करने के लिए दायित्वाधीन होगी और ऐसा व्यय या तो निधि में या यथास्थिति, पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय के नामें डाल दिया जाएगा।

(21) रेल विभाग के पेंशनभोगियों को पेंशनिक फायदों का संदाय, उसके पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय में संपर्वर्तन की तारीख को, सरकार का उत्तरदायित्व बना रहेगा और इस कारण उसके दायित्वों के हिस्से के लिए प्रक्रिया सरकार द्वारा अवधारित की जाएगी।

(22) किसी रेल विभाग के पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय में उन संपर्वर्तन होने पर :—

(क) पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय में आमेलन की तारीख को आमेलित कर्मचारियों के खाते में जमा भविष्य निधि का अतिशेष, ऐसे उपक्रम या निकाय की सहमति से, यथास्थिति, ऐसे उपक्रम या निकाय में उन कर्मचारियों के नए भविष्य निधि खाते को अंतरित कर दिया जाएगा;

(ख) आमेलन की तारीख को कर्मचारियों के खाते में जमा औसत वेतन छुट्टी और अर्ध-वेतन छुट्टी यथास्थिति, ऐसे उपक्रम या निकाय को अंतरित हो जाएंगी:

(ग) ऐसे उपक्रम या निकाय में किसी कर्मचारी के आमेलन के पश्चात् किसी पश्चात्वर्ती अवचार के लिए पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय की सेवा से पदच्युति या हटाया जाना, रेलवे के अधीन की गई सेवा के लिए सेवानिवृत्ति फायदों के समपहरण की कोटि में नहीं आएगा और उसकी पदच्युति या हटाये जाने या छटनी की दशा में, उपक्रम या निकाय का विनिश्चय रेल मंत्रालय के पुष्टिकरण किए जाने के अधीन होगा।

(23) यदि सरकार किसी पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय में अपनी साधारण पूँजी को इक्यावन प्रतिशत या इससे अधिक की सीमा तक अपविनिधान करती है तो वह ऐसे पब्लिक सैक्टर उपक्रम या स्वायत्त निकाय के आमेलित कर्मचारियों के हितों की संरक्षा के लिए पर्याप्त रक्षोपाय विनिर्दिष्ट करेगी।

(24) उपनियम (23) के अधीन विनिर्दिष्ट रक्षोपायों के अंतर्गत ऐसे सेवकों या कर्मचारियों को स्वैच्छिक सेवानिवृत्ति का विकल्प या यथास्थिति उपक्रम या निकाय की सेवा में बने रहने, या रेल सेवकों या पब्लिक सेवकर उपक्रम या स्वायत्त निकाय के कर्मचारियों को लागू होतीं पर स्वैच्छिक सेवानिवृत्ति फायदों, अर्हक सेवा की अवधि में शिथिलता के साथ उपार्जित पेंशनिक फायदों के सुनिश्चित संदाय का विकल्प भी है, जैसा सरकार द्वारा विनिश्चित किया जाए । । ।

[सं. एफ(ई)III/2003/पीएन-1/1]

एम.के. अग्रवाल, सचिव, रेलवे बोर्ड और
पदेन अपर सचिव

स्पष्टीकरण ज्ञापन

1. रेल सेवा (पेंशन) नियम, 1993, 3 दिसंबर, 1993 को प्रवृत्त हुए थे।
2. इस संबंध में तारीख 30 सितंबर, 2000 के सं. का.आ. 904(अ) के तहत भारत के राजपत्र में प्रकाशित पेंशन एवं पेंशनभागी कल्याण विभाग की अधिसूचना के साथ एकरूपता बनाए रखने के उद्देश्य से इस अधिसूचना को 30 सितंबर, 2000 से भूललक्षी प्रभाव दिया जा रहा है।
3. उक्त नियमों के संशोधनों को भूललक्षी प्रभाव दिये जाने से किसी व्यक्ति के हित पर कोई प्रतिकूल प्रभाव नहीं पड़ेगा।

टिप्पण :—रेल सेवा (पेंशन) नियम, 1993 भारत के राजपत्र, असाधारण में अधिसूचना सं. का.आ. 930 तारीख 3 दिसम्बर, 1993 के तहत प्रकाशित किए गए थे और तत्पश्चात् उनमें निम्नलिखित द्वारा संशोधन किए गए :—

क्र. अधिसूचना सं.	तारीख सं.	भारत के राजपत्र, भाग II, खंड 3, उप-खण्ड (ii) में प्रकाशित का.आ. सं. प्रकाशन की तारीख	1	2	3	4	5
1. एफ(ई)III/94/	03-02-1995	511	25-02-1995	पीएन 1/31 (संशोधन)			
2. ई (जी)94	31-03-1995	1026	15-04-1995	ईएम 1-6			
3. एफ(ई)III/99/	23-05-2000	1554	15-07-2000	पीएन 1/38 (उपांतरण)			
4. एफ(ई)III/97/	24-05-2000	1553	15-07-2000	पीएन 1/14 (संशोधन)			
5. एफ(ई)III/2000/	18-10-2001	1081	30-03-2002	पीएन 1/23			
6. ई(जी)2000	23-08-2002	1214(अ)	04-11-2004	ईएम 1/1			
7. एफ(ई)III/2003/	30-12-2003	1488(अ)	30-12-2003	पीएन 1/38 (संशोधन)			
8. एफ(ई)III/2004/	7-12-2004	3191	18-12-2004	पीएन 1/21 (संशोधन)			
9. एफ(ई)III/2003	20-01-2005	399	5-02-2005	पीएन 1/25			

MINISTRY OF RAILWAYS

(RAILWAY BOARD)

New Delhi, the 10th March, 2005

S.O. 1001.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Railway Services (Pension) Rules, 1993, namely :—

1. (1) These rules may be called the Railway Services (Pension) (Second Amendment) Rules, 2005.

(2) They shall be deemed to have come into force from the 30th day of September, 2000.

2. In the Railway Services (Pension) Rules, 1993, after rule 53, the following rule shall be inserted, namely :—

"53 A. Conditions for payment of pension on absorption consequent upon conversion of a Railway Department into a Central autonomous body or a public sector undertaking.—

- (1) On conversion of a Department of the Railway into a public sector undertaking or an autonomous body, all railway servants of that Department shall be transferred en-masse to that public sector undertaking or autonomous body, as the case may be, on terms of foreign service without any deputation allowance till such time they get absorbed in the said undertaking or body, as the case may be, and such transferred railway servants shall be absorbed in the public sector undertaking or autonomous body, as the case may be with effect from such date as may be notified by the Government.
- (2) The Government shall allow the transferred railway servants an option to revert to the railway or to seek permanent absorption in the public sector undertaking or autonomous body, as the case may be.
- (3) The option referred to in sub-rule (2) shall be exercised by every transferred railway servant in such manner and within such period as may be specified by the Government.
- (4) The permanent absorption of the railway servants as employees of the public sector undertaking or autonomous body shall take effect from the date on which their options are accepted by the Government and on and from the date of such acceptance, such employees shall cease to be railway servants and they shall be deemed to have retired from railway service.
- (5) Upon absorption of railway servants in the public sector undertaking or autonomous body, the posts which they were holding in the Government before such absorption shall stand abolished.
- (6) The employees who opt to revert to railway service shall be re-deployed through the surplus cell of the Railway.
- (7) The employees including temporary employees but excluding casual labourers, who opt for permanent absorption in the public sector undertaking or autonomous body, shall on and from the date of absorption be governed by the rules and regulations or bye-laws of the public sector undertaking or autonomous body, as the case may be.
- (8) A permanent railway servant who has been absorbed as an employee of a public sector undertaking or autonomous body, as the case may be shall be eligible for pensionary benefits on the basis of combined service rendered by him or her in the railways and in the public sector undertaking or autonomous body in

accordance with the formula for calculation of pension or family pension under these rules as may be in force at the time of his retirement from the public sector undertaking or autonomous body, as the case may be.

Explanation.—The amount of pension or family pension of the absorbed employee on superannuation from public sector undertaking or autonomous body, as the case may be, shall be calculated in the same way as would be the case with a railway servant, retiring on superannuation, on the same day.

- (9) The pension of an employee under sub-rule (8) shall be calculated on the basis of his last ten months' average pay.
- (10) In addition to pension or family pension, as the case may be, the employees shall also be eligible to dearness relief as per industrial dearness allowance pattern.
- (11) The benefits of pension and family pension shall be available to temporary transferred railway servants after they have been confirmed in the public sector undertaking or autonomous body.
- (12) A permanent railway servant absorbed in a public sector undertaking or autonomous body, or a temporary railway servant who has been confirmed in the public sector undertaking or autonomous body subsequent to his or her absorption therein, shall be eligible to seek voluntary retirement after completing ten years of qualifying service with the Government and the autonomous body or public sector undertaking taken together, and he or she shall be eligible for *pro rata* pensionary benefits on the basis of combined qualifying service.
- (13) The Government shall create a Pension Fund in the form of a trust and the pensionary benefits of absorbed employees shall be paid out of such Pension Fund.
- (14) The Member Staff, Railway Board shall be the Chairperson of the Board of Trustees which shall include representatives of the Ministries of Finance, Personnel, Public Grievances and Pensions, Labour, concerned public sector undertaking or autonomous body and their employees and experts in the relevant field to be nominated by the Government.
- (15) The procedure and the manner in which pensionary benefits are to be sanctioned and disbursed from the Pension Fund shall be determined by the Government on the recommendation of the Board of Trustees.

- (16) The Government shall discharge its pensionary liability by paying in lump sum as a one time payment to the Pension Fund the *pro rata* pension or service gratuity and retirement gratuity for the service rendered till the date of absorption of the railway servant in the public sector undertaking or autonomous body.
- (17) The manner of sharing the financial liability on account of payment of pensionary benefits by the public sector undertaking or autonomous body shall be determined by the Government.
- (18) Lump sum amount of the *pro rata* pension shall be determined in accordance with the Table of the values in appendix to the Railway Services (Commutation of Pension) Rules, 1993.
- (19) The public sector undertaking or autonomous body, as the case may be, shall make pensionary contribution to the Pension Fund for the period of service to be rendered by the concerned employees under that undertaking or body at the rates as may be determined by the Board of Trustees so that the Pension Fund shall be self-supporting.
- (20) If, for any financial or operational reason, the Trust is unable to discharge its liabilities fully from the Pension Fund and the public sector undertaking or autonomous body is also not in a position to meet the shortfall, the Government shall be liable to meet such expenditure and such expenditure shall be debited to either the Fund or to the public sector undertaking or autonomous body, as the case may be.
- (21) Payments of pensionary benefits of the pensioners of a railway department on the date of conversion of it into a public sector undertaking or autonomous body shall continue to be the responsibility of the Government and the mechanism for sharing its liabilities on this account shall be determined by the Government.
- (22) Upon Conversion of a railway department into a public sector undertaking or autonomous body—
 - (a) the balance of provident fund standing at the credit of the absorbed employees on the date of their absorption in the public sector undertaking or autonomous body shall with the consent of such undertaking or body, be transferred to the new provident fund account of the employees in such undertaking or body, as the case may be;

(b) leave on average pay and leave on half average pay at the credit of the employees on the date of absorption shall stand transferred to such undertaking or body, as the case may be;

(c) the dismissal or removal from service of the public sector undertaking or autonomous body of any employee after his or her absorption in such undertaking or body for any subsequent misconduct shall not amount to forfeiture of the retirement benefits for the service rendered under the railways and in the event of his dismissal or removal or retrenchment, the decisions of the undertaking or body shall be subject confirmation by the Ministry of Railways.

(23) In case the Government disinvests its equity in any public sector undertaking or autonomous body to the extent of fifty-one per cent or more, it shall specify adequate safeguards for protecting the interests of the absorbed employees of such public sector undertaking or autonomous body.

(24) The safeguards specified under sub-rule (23) shall include option for voluntary retirement or continued service in the undertaking or body, as the case may be, or voluntary retirement benefits on terms applicable to railway servants or employees of the public sector undertaking or autonomous body as per option of such servants or employees, assured payment of earned pensionary benefits with relaxation in period of qualifying service, as may be decided by the Government."

[No. F(E)III/2003/PN1/1]

M.K. AGARWAL, Secy., Railway Board and
Ex-Officio Addl. Secy.

EXPLANATORY MEMORANDUM

1. The Railway Services (Pension) Rules, 1993 came into force on the 3rd December, 1993.
2. In order to keep uniformity with the Department of Pension and Pensioners' Welfare's Notification on the issue published in the Gazette of India, vide Number S.O. 904(E) dated the 30th September, 2000, this notification is given retrospective effect from the 30th September, 2000.
3. The amendments to the said rules with retrospective effect will not adversely affect the interest of any person.

Note.—The Railway Services (Pension) Rules, 1993 were published in the Gazette of India, Extraordinary, vide number S.O. 930 dated the 3rd December, 1993 and subsequently amended by :—

Sl. No.	Notification No.	Date	Published in the Gazette of India Part II Section 3 Sub-section (ii)	
			S.O. No.	Date of Publication
1	2	3	4	5
1.	F(E)III/94/ PN1/31 (Amendment)	03-02-1995	511	25-02-1995
2.	E(G)94 EM1-6	31-3-1995	1026	15-04-1995
3.	F(E)III/99/ PN1/38 (Modification)	23-05-2000	1554	15-07-2000
4.	F(E)III/97/ PN1/14 (Amendment)	24-05-2000	1553	15-07-2000
5.	F(E)III/2000/ PN1/23	18-10-2001	1081	30-03-2002
6.	E(G)2002/ EMI/1	23-08-2002	1214(E)	04-11-2004
7.	F(E)III/2003/ PN1/38 (Amendment)	30-12-2003	1488(E)	30-12-2003
8.	F(E)III/2004/ PN1/21 (Amendment)	7-12-2004	3191	18-12-2004
9.	F(E)III/2003/ PN1/25	20-01-2005	399	05-02-2005

भारी उद्योग एवं लोक उद्यम मंत्रालय

(भारी उद्योग विभाग)

(ए.आई.अनुभाग)

आदेश

नई दिल्ली, 3 मार्च, 2005

का.आ. 1002.—विकास परिषद् (प्रक्रियात्मक) नियम, 1952 के 2,3,4, एवं 5 नियम के साथ पठित औद्योगिक (विकास एवं विकासन) अधिनियम, 1951 (1951 का 65) के अनुबंध 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा निम्नलिखित व्यक्तियों को अधिकारिक राजपत्र में इस आदेश के प्रकाशन की तिथि से प्रभावी 2 वर्ष की अवधि के लिए ऑटोमोबाइल एवं सहायक उद्योग विकास परिषद् का सदस्य नियुक्त करती है :—

(क) व्यक्ति जो अनुसूचित उद्योग के तकनीकी या अन्य स्वरूपों से संबंधित यामलों में विशेष जानकारी रखते हैं :

1. सचिव, भारत सरकार, अध्यक्ष
भारी उद्योग विभाग,
भारी उद्योग एवं लोक उद्यम मंत्रालय,
उद्योग भवन,
नई दिल्ली।

2.	संयुक्त सचिव (प्रदूषण नियंत्रण) पर्यावरण एवं वन मंत्रालय, नई दिल्ली।	सदस्य	12.	श्री रतन एन. टाटा अध्यक्ष, टाटा मोटर्स टेल्सो, बाम्बे हाऊस, 24 होमी मोडे स्ट्रीट, हुतात्मा चौक, मुम्बई-400001	सदस्य
3.	सलाहकार (उद्योग एवं मिनरल्स), योजना आयोग, नई दिल्ली।	सदस्य	13.	श्री राहुल बजाज अध्यक्ष एवं प्रबंध निदेशक, बजाज ऑटो लि., मुम्बई-पुणे रोड, आकुडों, पुणे-411035	सदस्य
4.	संयुक्त सचिव (टेक्स रिसंच यूनिट), सेन्ट्रल बोर्ड ऑफ एक्साइज एंड कस्टम, वित्त मंत्रालय, नई दिल्ली।	सदस्य	14.	श्री ब्रिज मोहन लाल मुंजाल अध्यक्ष एवं प्रबंध निदेशक, हीरो होण्डा मोटर्स लि., 34, सामुदायिक केन्द्र, बसंत लोक, बसंत विहार, नई दिल्ली।	सदस्य
5.	संयुक्त सचिव (परिवहन), सड़क परिवहन एवं राजमार्ग मंत्रालय, नई दिल्ली।	सदस्य	15.	श्री अभय एन. फिरोडिया अध्यक्ष एवं प्रबंध निदेशक, बजाज टेम्पो लि., मुम्बई-पुणे रोड, आकुडों, पुणे-411035	सदस्य
6.	संयुक्त सचिव (ईधन संबंधी मोमले), पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय, नई दिल्ली।	सदस्य	16.	श्री बाबा एन. कल्याणी अध्यक्ष एवं प्रबंध निदेशक, भारत फोर्ज लिमिटेड, मुन्थवा, पुणे-411036	सदस्य
7.	संयुक्त सचिव (इंचार्ज ऑफ ऑटो सेक्टर) भारी उद्योग विभाग, भारी उद्योग एवं लोक उद्यम मंत्रालय, उद्योग भवन, नई दिल्ली।	सदस्य-सचिव	17.	श्री आनन्द महेन्द्रा अध्यक्ष एवं प्रबंध निदेशक, महेन्द्रा एण्ड महेन्द्रा लिमिटेड गेटवे बिल्डिंग, अपोलो बंडर, मुम्बई-400001	सदस्य
8.	निदेशक ऑटोमोटिव रिसर्च एसोसिएशन ऑफ इंडिया, पो. बाक्स नं. 832, पुणे-411004	सदस्य	18.	श्री अतसुशी टोयोसिम्हा प्रबंध निदेशक, टोयटा किलोस्कर मोटर प्रा. लिमिटेड, प्लाट नं.-1, बिदाई इंडीस्ट्रियल एरिया, बंगलौर (ग्रामीण) तालुक, बंगलौर, कर्नाटक	सदस्य
ख.	व्यक्ति जो अनुसूचित उद्योग में औद्योगिक उपकरणों के मालिकों के हितों का प्रतिनिधित्व करने में सक्षम हैं।		19.	श्री एम.एस. जहीद, अध्यक्ष एवं प्रबंध निदेशक, एच.एम.टी. लिमिटेड, एचएमटी भवन, 59, बेरली रोड, बंगलौर-500032	सदस्य
9.	अध्यक्ष सोसाइटी फोर इंडियन ऑटोमोबाइल मैन्युफैक्चरर्स, कोर-4-बी-, जोन IV, 5वीं मंजिल, इंडिया हैबीटेंट सेंटर, लोदी रोड, नई दिल्ली-110003	सदस्य	20.	श्री विजोन नाग, अध्यक्ष, आईएफबी ऑटोमोटिव प्रा. लि., 16/17, विश्वेशिरिया इंडस्ट्रियल इस्टेट, पोस्ट : महादेवपुरा, आफ वाइटफील्ड रोड, बंगलौर-560048	सदस्य
10.	अध्यक्ष ऑटोमोटिव कम्पोनेंट मैन्युफैक्चरर्स एसेमिएशन, कैपीटल कोर्ट, 6वीं मंजिल, ओलोफ पालमे मार्ग, मुनिरका, नई दिल्ली-110067	सदस्य			
11.	अध्यक्ष ट्रैक्टर मैन्युफैक्चरर्स एसोसिएशन, 23, 26, इंस्टीट्यूशनल एरिया, लोदी रोड, नई दिल्ली-110003	सदस्य			

(ग) व्यक्ति जो अनुसूचित उद्योग या अनुसूचित उद्योगों के समूह में औद्योगिक उपकरणों में नियोजित व्यक्तियों के हितों का प्रतिनिधित्व करने में सक्षम है।

21. श्री आर.के. आनंद सदस्य
वरिष्ठ अधिकारी, सांसद (राज्य सभा)
सी-70 साउथ एक्सटेंशन, पार्ट-II
नई दिल्ली-110049

(घ) व्यक्ति जो उपरोक्त किसी भी श्रेणियों से संबंधित नहीं हैं और जो अनुसूचित उद्योग द्वारा निर्मित या उत्पादित सामानों के उपभोक्ताओं के हितों का प्रतिनिधित्व करने में सक्षम हैं।

22. कार्यकारी निदेशक सदस्य
एसोसिएशन ऑफ स्टेट रोड,
ट्रांसपोर्ट अंडरटेकिंग्स,
7/6 सिरी फोर्ट, इंस्टीट्यूशनल एरिया,
खेल गांव मार्ग,
नई दिल्ली-110049

23. श्री सरित मोहन देव सदस्य
1, नेशनल कोर्ट,
13, लाउडोन स्ट्रीट,
कोलकाता-700017

24. श्री कपिल देव सदस्य
14, बाबर रोड, बंगली मार्किट,
नई दिल्ली।

25. श्री एम.पी. बेजबरूआ सदस्य
ए-86, द्वितीय तला,
डिफेंस कालोनी,
नई दिल्ली-110024

2. विकास परिषद् (प्रक्रियात्मक) नियम, 1952 के नियम, 2 के खण्ड (ग) के अनुसरण में केन्द्रीय सरकार भारी उद्योग एवं लोक उद्यम मंत्रालय के ऑटो सेक्टर कार्यभार के लिए प्रभारी संयुक्त सचिव को एतद्वारा उक्त विकास परिषद् के सदस्य सचिव के कार्यों को देखने के लिए नियुक्त करती है।

[सं. 7(1)/2004-ईआई]

एस.धी. भावे, संयुक्त सचिव

MINISTRY OF HEAVY INDUSTRIES AND PUBLIC ENTERPRISES

(Department of Heavy Industry)

(AEI SECTION)

ORDER

New Delhi, the 3rd March, 2005

S.O. 1002.—In exercise of the powers conferred by Section 6 of the Industries (Development & Regulation)

Act, 1951 (65 of 1951) read with rules 2,3,4 & 5 of the Development Council (Procedural) Rules, 1952 the Central Government hereby appoints for a period of two years from the date of publication of this Order in the Office Gazette the following persons to be Members of the Development Council for Automobiles and Allied Industries namely :—

A. Person having special knowledge of matter relating to the technical or other aspects of the scheduled industry.

1. Secretary to the Government of India Chairman Department of Heavy Industry Ministry of Heavy Industries and Public Enterprises Udyog Bhavan, New Delhi.
2. Joint Secretary (Pollution Control) Member Ministry of Environment & Forest New Delhi.
3. Adviser (Industry and Minerals) Member Planning Commission New Delhi.
4. Joint Secretary (Tax Research Unit) Member Central Board of Excise & Customs, Ministry of Finance, North Block, New Delhi.
5. Joint Secretary (Transport) Member Ministry of Road Transport & Highways Transport Bhavan, New Delhi.
6. Joint Secretary (Fuel Matters) Member Ministry of Petroleum & Natural Gas Shastri Bhavan, New Delhi.
7. Joint Secretary (in charge of Auto Sector) Member-Secretary Deptt. of Heavy Industry Ministry of Heavy Industries & Public Enterprises New Delhi.
8. Director Member Automotive Research Association of India Post Box No. 832, Pune-411 004.

B. Persons capable of representing the interests of owners of Industrial Undertaking in the Scheduled Industry.

9.	President, Society of Indian Automobile Manufacturers, Core 4-B, Zone-IV, 5th Floor, India Habitat Centre, Lodhi Road, New Delhi-110 003	Member	19.	Shri M.S. Zahed, Chairman and Managing Director, HMT Ltd., HMT Bhavan, 59, Bellary Road, Bangalore-560032	Member
10.	President, Automotive Component Manufacturers Association Capital Court, 6th Floor, Ol of Palme Marg, Munirka, New Delhi-67.	Member	20.	Shri Bijon Nag, Chairman, IFB Automotive Pvt. Ltd., 16/17 Viswesvariah Industrial Estate, Post Mahadevpura, Off Whitefield Road, Bangalore-560048	Member
11.	President, TractorManufacturers Association 23—26, Institutional Area, Lodhi Road, New Delhi.	Member	C.	Persons capable of representing the interests of persons employed in Industrial Undertakings in the Scheduled industry or Group of Scheduled Industries.	
12.	Shri Ratan N. Tata, Chairman, TATA Motors Ltd., Bombay House, 24, Homi Mody Street, Hutatma Chowk, Mumbai-400 001.	Member	21.	Shri R.K. Anand, Sr. Advocate, Member of Parliament, Rajya Sabha, C-70, South Extension, Part-II New Delhi-110049.	Member
13.	Shri Rahul Bajaj, Chairman & Managing Director, Bajaj Auto Ltd., Mumbai Pune Road, Akurdi, Pune-411035	Member	D.	Persons not belonging to any of the aforesaid categories, who are capable of representing the interests of consumers of goods manufactured or produced by the Scheduled Industry.	
14.	Shri Brij Mohan Lall Munjal Chairman & Managing Director Hero Honda Motors Ltd., 34, Community Centre, Basant Lok, Vasant Vihar, New Delhi.	Member	22.	Executive Director, Association of State Road Transport Undertakings, 7/6, Sirifort Institutional Area, Khel Gaon Marg, New Delhi-49.	Member
15.	Shri Abhay N. Firodia, Chairman & Managing Director Bajaj Tetempo Ltd., Mumbai-Pune Road, Akurdi, Pune-411 035	Member	23.	Shri Sarit Mohan Dev. 1, National Court, 13, Loudon Street, Kolkata-700017.	Member
16.	Shri Baba N. Kalyani, Chairman and Managing Director, Bharat Forge Limited, Mundhwa, Pune-4411 036.	Member	24.	Shri Kapil Dev. 14, Babar Road, Bengali Market, New Delhi.	Member
17.	Shri Anand Mahindra, Vice Chairman & Managing Director, Mahindra & Mahindra Ltd., Gate-way Building, Apollo Bunder, Mumbai-400 001.	Member	25.	Shri M.P. Bezbaruah, A-86, IInd Floor, Defence Colony, New Delhi-110024	Member
18.	Shri Atsushi Toyoshima, Managing Director, Toyota Kirloskar Motor Pvt. Ltd., Plot No. 1, Bidadi Industrial Area, Bangalore. (Rural) Taluk, Bangalore, Karnataka.	Member		2. In pursuance of clause (c) of rule 2 of the Development Council (Procedural) Rules, 1952, the Central Government hereby appoints the Joint Secretary, in charge of Auto Sector, Department of Heavy Industry, Ministry of Heavy Industries & Public Enterprises, New Delhi to carry on the functions of the Secretary to the said Development Council.	

[No. 7(1)/2004-AE]

S.V. BHAVE, Jt. Secy.

उपभोक्ता भागले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता भागले विभाग)

नई दिल्ली, 10 फरवरी, 2005

का०आ० 1003.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बाट की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स डेल्टा एन्टरप्राइजेज, गोपाल बिल्डिंग, कच्छहरी गेट (पश्चिमी) के निकट, मेरठ कालिज के सामने, मेरठ-250001 उत्तर प्रदेश द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले “डी डब्ल्यू जे” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम “डेल्टा” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/454 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।

उक्त मॉडल विकृति (स्ट्रेन) गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार का) है। इसकी अधिकतम क्षमता 30 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपर्युक्त करता है। उपकरण 230 बोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



स्ट्राइप प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए मुद्रांकन भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के बैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि.ग्रा. से 50 मि.ग्रा. तक “ई” मान के लिए 100 से 50,000 तक के रेंज में सत्यापन माप मान (एन) और 100 मि. ग्रा. या उससे अधिक के “ई” मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान (एन) अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^4 , 2×10^4 या 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा.सं. डब्ल्यू एम-21(40)/2003]

पी० ए० कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

New Delhi, the 10th February, 2005

S.O. 1003.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Table top type) with digital indication of "DWJ" series of high accuracy (Accuracy class-II) and with brand name "DELTA" (hereinafter referred to as the said Model), manufactured by M/s. Delta Enterprises, Gopal Building, Near Kutchery Gate (W), Opp. Meerut College, Meerut-250001, U.P. and which is assigned the approval mark IND/09/2004/454;

Now the said Model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30kg. and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts, and 50 Hertz alternative current power supply.



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instrument of similar make, and performance of same series with maximum capacity up to 50 kg. and with number of verification scale interval (n) in the range of 100 to 5,000 for 'e' value 1 mg to 50 mg and with number of verification scale interval (n) in the range of 5,000 to 50,000 for 'e' value of 100 mg. or more and with 'e' value of 5g. 1×10^4 , 2×10^4 or 5×10^4 , K being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principles, design and with the same materials with which, the said approved Model has been manufactured.

[F. No. WM-21(40)/2003]

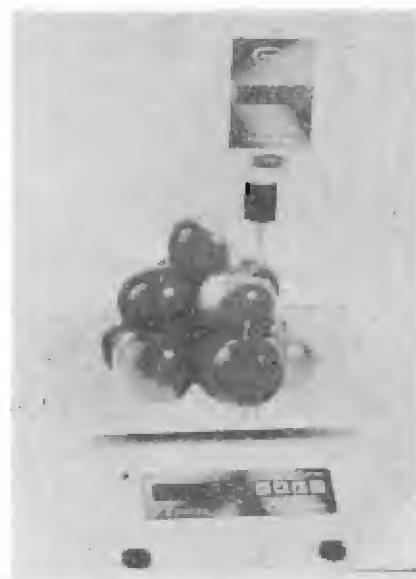
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 10 फरवरी, 2005

का०आ० 1004.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स डेल्टा एन्टरप्राइजेज, गोपाल बिल्डिंग, कचहरी गेट (पश्चिमी) के निकट, मेरठ-250001 उत्तर प्रदेश द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-III) वाले “डीडब्ल्यूटी” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम “डेल्टा” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/455 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।

उक्त मॉडल विकृति (स्ट्रेन) गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार का) है। इसकी अधिकतम क्षमता 12 कि. ग्रा. और न्यूनतम क्षमता 40 ग्रा. है। सत्यापन मापमान अन्तराल (ई) मान 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डॉयोड (एलईडी) प्रदर्श तोलन परिणाम उपर्युक्त करता है। उपकरण 230 बोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



स्लिपिंग स्लैट के मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धात, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के बैसे ही मैक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. से 2 ग्रा. तक “ई” मान के लिए 100 से 10,000 तक के रेंज में सत्यापन मापमान अन्तराल (एन) और 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान (एन) अन्तराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता आले हैं और “ई” मान 1×10^4 , 2×10^4 या 5×10^4 , के हैं, जो धनात्मक या त्रहात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा.सं. डब्ल्यू एम-21(40)/2003]

पी० ए० कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 10th February, 2005

S.O. 1004.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issue and publishes the certificate of approval of non-automatic weighing instrument (Table top type) with digital indication of "DWT" series of medium accuracy (Accuracy class-III) and with brand name "DELTA" (hereinafter referred to as the said Model), manufactured by M/s. Delta Enterprises, Gopal Building, Near Kutchery Gate (W), Opp. Meerut College, Meerut-250001, U.P. and which is assigned the approval mark IND/09/2004/455;



The said Model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 12kg. and minimum capacity of 40g. The verification scale interval (e) is 2g. It has a tare device with 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg. with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100 mg. to 2g. or with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'c' value of 1×10^k , 2×10^k or 5×10^k , K being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principles, design and with the same materials with which, the said approved Model has been manufactured.

[F. No. WM-21(40)/2003]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 10 फरवरी, 2005

का०आ० 1005.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स जीईसी स्केल इंडस्ट्रीज, 20/82, जमुना किनारा, धर्म काटे के सामने, जोवनी मंडी, आगरा-282004 द्वारा विनिर्मित गणक मशीन के मॉडल का (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/2004/300 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) एक गणक मशीन है। इसकी अधिकतम क्षमता 10 कि.ग्रा. है।



केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा उद्दल शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का निर्माण किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन की गणक मशीन भी होगी जिसकी क्षमता 500 ग्रा. से 50. कि.ग्रा. तक है।

[फा.सं. डब्ल्यू एम-21(92)/2004]

पी० ए० कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 10th February, 2005

S.O. 1005.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of counter machine (herein referred to as the model), manufactured by M/s. GEC Scale Industries, 20/82, Jamuna Kinara, Opp Dharam Kanta, Jeon Mandi, AGRA-282004 and which is assigned the approval mark IND/09/2004/300;

The said model (see the figure given below) is a counter machine with a maximum capacity 10kg.



Further, in exercise of the power conferred by sub-section (12) of the said Section, the Central Government hereby declares that this certificate of approval of the model shall also cover the Counter Machine of similar make, accuracy and performance of same series with maximum capacity from 500g up to 50 kg manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(92)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 10 फरवरी, 2005

का०आ० 1006.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बाट की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स जीईसी स्केल इंडस्ट्रीज, 20/82, जमुना किनारा, धर्म कॉट के सामने, जीवनी मंडी, आगरा-282004 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “जीईसी” शृंखला के विषम भुज तुला और अनुकूल भार सहित अस्वचालित तोल (प्लेट फार्म मशीन अनुकूल कार प्रकार) मॉडल का, (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/301 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।

उक्त मॉडल यांत्रिक प्रकार का लीवर आधारित विषम भुज तुला और अनुकूल भार सहित अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 1000 कि.ग्रा. और न्यूनतम क्षमता 2 कि.ग्रा. है और यह मध्यम यथार्थ वर्ग (यथार्थता वर्ग-III का है) सत्यापन मापमान अंतराल (ई) का मान 100 ग्राम है।



और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का निर्माण किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के उपकरण भी होंगे जो 5 ग्राम या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि. ग्रा. से अधिक और 5000 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^4 , 2×10^4 या 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(92)/2004]

पृ० १० कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 10th February, 2005

S.O. 1006.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model non-automatic weighing instrument (Plateform machine-pro weight type) with steel yard and pro-weight (hereinafter referred to as the said model) belonging to medium accuracy class (Accuracy class-III) and with series and brand name "GEC", manufactured by M/s. GEC Scale Industries, 20/82, Jamuna Kinara, Opp Dharam Kanta, Jeomji Mandi, AGRA-282004 and which is assigned the approval mark IND/09/2004/301;

The said model is a mechanical type lever based non-automatic weighing instrument (Platform machine-pro weight type) with steel yard and pro-weight maximum capacity 1000kg, minimum capacity 2 kg and belonging to medium accuracy class (Accuracy class-III). The value of verification scale interval 'e' is 100g.



Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg and up to 5000 kg and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , 'k' being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

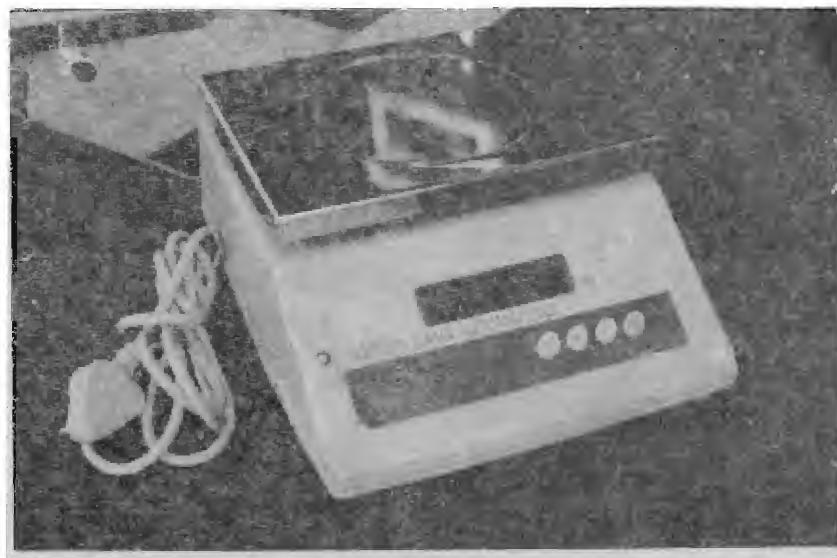
[F. No. WM-21(92)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 16 फरवरी, 2005

कां०आ० 1007.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स राधव रामा आटोमेशन, डी नं० 2-206/1 अरुण कांप्लैक्स, सूर्योमहल के पीछे, बीच रोड, वक्कलपुडी, कक्कीनाडा-533005 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले “पी डब्ल्यू” शृंखला के अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्राइड का नाम “आर आर ए!” है (जिसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/267 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृत (स्ट्रेन) गेज प्रकार का भार सेल आधारित (टेबल टॉप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 6 कि. ग्रा. है इसकी न्यूनतम क्षमता 25 ग्रा. है। सत्यापन मापमान (ई) अंतराल 500 मि.ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शात-प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टॉपिंग स्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए भी मुद्रांकित की जाएगी।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि.ग्रा. से 50 मि.ग्रा. तक “ई” मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि.ग्रा. या उससे अधिक के “ई” मान के लिए 100 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^4 , 2×10^4 या 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा.सं. डब्ल्यू एम-21(35)/2004]

पी० ए० कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 16th February, 2005

S.O. 1007.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model non-automatic weighing instrument (Table top type) with digital indication of "PW" series of high accuracy (Accuracy class-II) and with brand name "RRA" (hereinafter referred to as the said model), manufactured by M/s. Raghav Rama Automation, D. No. 2-206/1, Arun Complex, Opposite to Surya Mahal, Beach Road, Vikalpudi, Kakinada-533 005 and which is assigned the approval mark IND/09/2004/267;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 6kg. and minimum capacity of 25g. The verification scale interval (e) is 500mg. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 50 kg. with verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1 mg to 50 mg and with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100 mg. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(35)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 16 फरवरी, 2005

का० आ० 1008.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में चर्चित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए ऐसर्स राघव रामा आटोमेशन, डी नं० 2-206/1 अरुण कांस्टैक्स, सूर्यमहल के पीछे, बीच रोड, वक्कलपुडी, कक्कीनाडा-533005 द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले “पी पी” शृंखला के अंतर्वालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्राण्ड का नाम “आर आर ए” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/268 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृत (स्ट्रेन) गेज प्रकार का भार सेल आधारित (प्लेट फार्म प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता - 600 कि. ग्रा. है इसकी न्यूनतम क्षमता 2.5 ग्रा. है। सत्यापन मापमान (ई) अंतराल 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यक्तलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 बोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टार्टिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए भी मुद्रांकित की जाएगी।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के बैंसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. या उससे अधिक के “ई” मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 कि.ग्रा. से ऊपर और 1000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^4 , 2×10^4 या 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णक या शून्य के समतुल्य हैं।

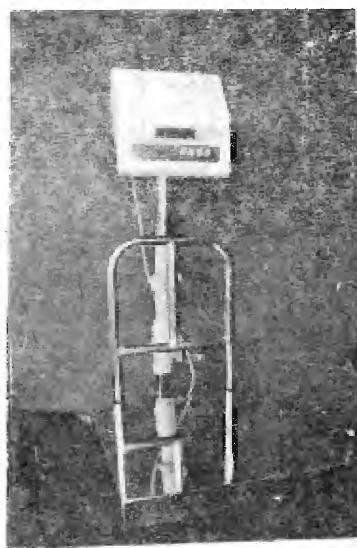
[फा.सं. डब्ल्यू एम-21(35)/2004]

पी० ए० कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 16th February, 2005

S.O. 1008.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of "PP" series of high accuracy (Accuracy class-II) and with brand name "RRA" (hereinafter referred to as the said model), manufactured by M/s. Raghav Rama Automation, D. No. 2-206/1, Arun Complex, Opposite to Surya Mahal, Beach Road, Vakalpudi, Kakinada-533 005 and which is assigned the approval mark IND/09/2004/268;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform Type) with a maximum capacity of 600 kg. and minimum capacity of 2.5g. The verification scale interval (e) is 50 g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg. and up to 1000 kg. with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100 mg. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(35)/2004]

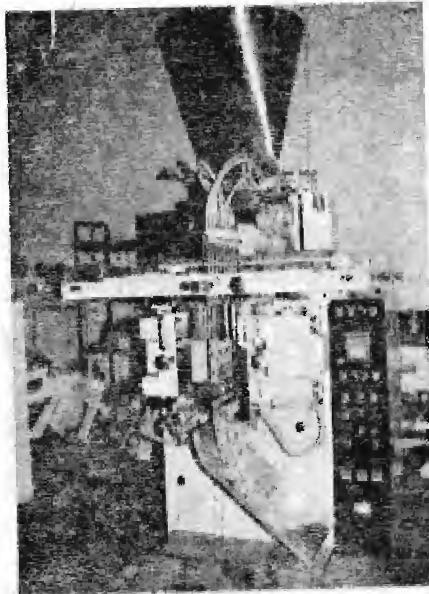
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 16 फरवरी, 2005

का०आ० 1009.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपर्युक्तों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स आकाश पैकेजिंग, प्लाट संख्या 84, एच एस आई डी सी इंडस्ट्रियल, सेक्टर-59, फरीदाबाद द्वारा विनिर्मित “ए पी-एल” शृंखला के स्वतः सूचक, स्वचालित (द्रव भरण मशीन/पिस्टन भरण) के मॉडल का, जिसके द्वाण का नाम “आकाश पैकेजिंग” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/338 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।

उक्त मॉडल एक स्वचालित भरण मशीन (पिस्टन फिलर) है। इसकी क्षमता 2 ग्राम से 200 ग्राम तक की रेंज की है। इसमें पैकेटों को भरने के लिए बहु टेक प्रणाली है और द्रव उत्पाद जैसे शैम्पू, केश तेल, खाद्य तेल, 2 टी तेल, क्रीम, इंजन तेल और अन्य मुक्त प्रवाह वाले द्रवों को सीलबंद करने की युक्ति प्रयुक्त की गई है। यह 20 थैली प्रति फिलट से 90 थैली प्रति फिलट हजार भरण करती है। स्टार्मिंग स्लेट को मुद्रांकित करने के अतिरिक्त कमटपूर्ण व्यवहारों के लिए ताशीन को खोलने से रोकने के लिए भी सीलबंद भी किया जाएगा।



और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के ऐसे ही मेक, यथार्थता और कार्यपालन तथा 2 ग्रा. से 200 ग्रा. तक की रेंज की क्षमता के साथ तोलन उपकरण भी होंगे।

[फा.सं. डब्ल्यू एम-21(149)/2002]
पी० ए० कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

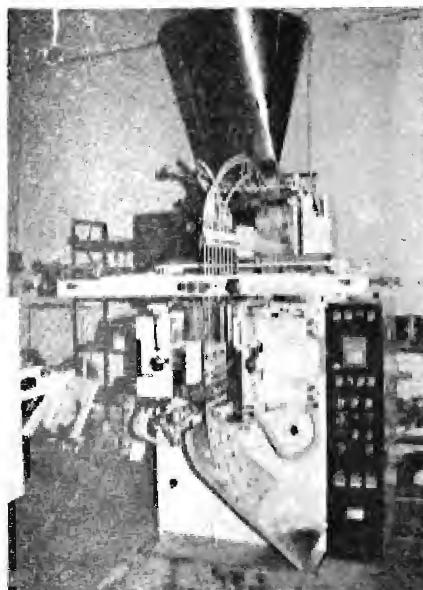
New Delhi, the 16th February, 2005

S.O. 1009.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of self indicating Automatic Liquid Filling Machine (Piston Filler) of "AP-L" series with brand name "AKASH PACKAGING" (herein referred to as the said model), manufactured by M/s. Akash Packaging, Plot No. 84, HSIDC Industrial, Sector-59, Faridabad and which is assigned the approval mark IND/09/2004/338;

The said model is an automatic filling machine (Piston Filler) with a capacity in the range of 2 g. to 200 g. It has multi-track system for filling the packets and sealing device used for filling of liquid products like shampoo, hair oil, edible oil, 2T oil, cream, engine oil, and other free flowing liquids. It fills 20 pouches per minute to 90 pouches per minute.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.



Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make and performance of same series with capacity in the range of 2 g to 200 g manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(149)/2002]

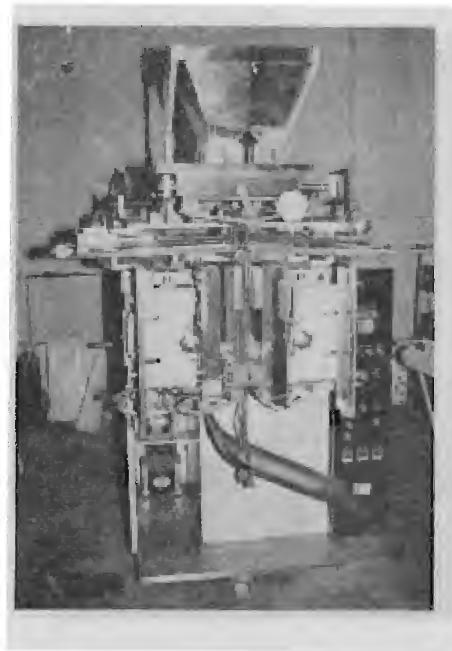
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 16 फरवरी, 2005

का०आ० 1010.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभाषना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्से आकाश पैकेजिंग, प्लाट संख्या 84, एच एस आई डी सी इंडस्ट्रियल, सेक्टर-59, फरीदाबाद द्वारा विनिर्मित “ए पी-पी” शृंखला के स्वतः सूचक, स्वचालित (द्रव भरण मशीन/कप फिलर) के मॉडल का, जिसके ब्राण्ड का नाम “आकाश पैकेजिंग” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/339 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र जारी और प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) एक स्वचालित भरण मशीन (कप फिलर) है। इसकी क्षमता 2 ग्राम से 200 ग्राम तक की रेंज की है। इसका प्रयोग मुक्त प्रवाह वाले ठोस उत्पाद जैसे दुध-चूर्ण पाउडर, मसाले, काफी चूर्ण, चाय चूर्ण, डिटर्जेंट पाउडर इत्यादि को भरने में किया जाता है। यह 30 थैली प्रति मिनट से 70 थैली प्रति मिनट तक भरण करती है। स्टार्मिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए भी सीलबंद भी किया जाएगा।



और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से, जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के दैसे ही मेक, यथार्थता 2 ग्राम से 200 ग्राम तक की रेंज की क्षमता वाले तोलन उपकरण भी होंगे।

[फा.सं. डब्ल्यू.एम-21(149)/2002]

पौ० ए० कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

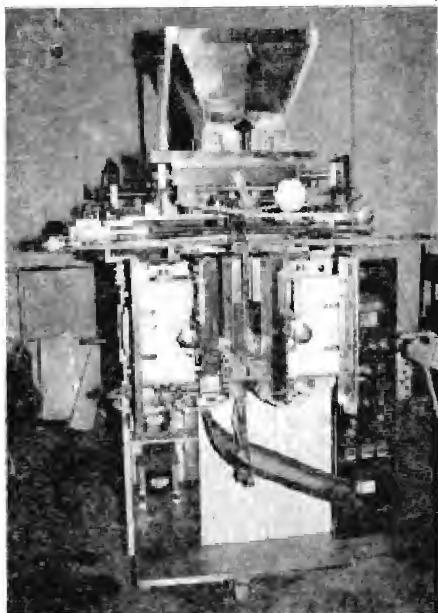
New Delhi, the 16th February, 2005

S.O. 1010.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of self indicating Automatic Liquid Filling Machine (Cup Filler) of "AP-P" series with brand name "AKASH PACKAGING" (herein referred to as the said Model), manufactured by M/s. Akash Packaging, Plot No. 84, HSIDC Industrial, Sector-59, Faridabad and which is assigned the approval mark IND/09/2004/339;

The said model (see the figure given below) is an automatic filling machine (Cup Filler) with a capacity in the range of 2 g. to 200 g. It is used for filling the free flowing solid products like milk powder, spices, coffee powder, tea powder, detergent powder etc. It fills 30 pouches per minute to 70 pouches per minute.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.



Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make and performance of same series with capacity in the range of 2 g to 200 g manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the said approved model has been manufactured.

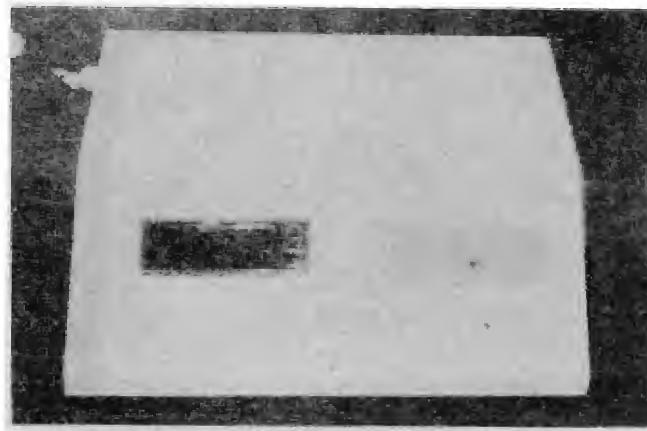
[F. No. WM-21(149)/2002]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 16 फरवरी, 2005

का०आ० 1011.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आँकूति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स वेल सिस्टम्स प्राइवेट लिमिटेड, # 8/19 सोनी कांप्लेक्स, रेडडी स्ट्रीट, विल्सोवक्कम, चेन्नई-600 049 द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग-III) वाले “बीएसपीएल-टी बी” शृंखला के अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम “वेन्डर” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/276 समनुरेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।



यह मॉडल विकृत गेज प्रकार का भार सेल प्रकार अस्वचालित टेबल टॉप प्रकार का तोलन उपकरण है। इसकी अधिकतम क्षमता 30 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत-प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एलईडी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टार्टिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए भी सीलबन्द की जाएगी।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के ऐसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. से 2 ग्राम तक “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान अंतराल (एन) और 5 ग्राम या उससे अधिक के “ई” मान के लिए 100 से 10,000 तक की रेंज में सत्यापन मान अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^4 , 2×10^4 या 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

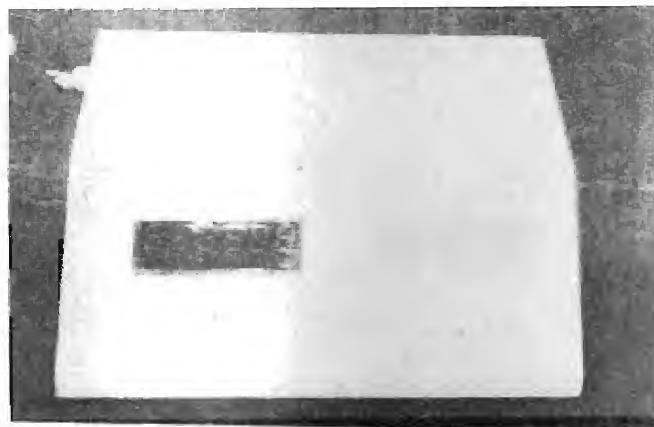
[फा.सं. डब्ल्यू एम-21(111)/2004]

पी० ए० कृष्णामृति, निदेशक, विधिक माप विज्ञान

New Delhi, the 16th February, 2005

S.O. 1011.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of "VSPL-TB" series of medium accuracy (Accuracy class-III) and with brand name "WONDER" (hereinafter referred to as the said model), manufactured by M/s. Vel Systems Private Limited, # 8/19, Sony Complex, Reddy Street, Villivakkam, Chennai-600 049 and which is assigned the approval mark IND/09/2004/276;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30kg. and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts. and 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, scaling shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg. with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100 mg to 2g and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(111)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 16 फरवरी, 2005

का० १०१२.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, १९७६ (१९७६ का ६०) तथा बाट और माप मानक (मॉडलों का अनुसोदन) नियम, १९८७ के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए पैससं खेल सिस्टम्स प्राइवेट लिमिटेड, # 8/19 सोनी कॉम्प्लेक्स, रेडी स्ट्रीट, विल्लीवक्कम, चेन्नई-600 049 द्वारा विनिर्मित मध्यम यथार्थता वार्ग (यथार्थता वर्ग-III) वाले “बीएसपीएल-पीटी” शृंखला के अस्वचालित तोलन उपकरण (स्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम “बेन्डर” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/277 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृत गेज प्रकार का सोड सेल आधारित अस्वच्छालित तोलन उपकरण (स्लेटफार्म प्रकार) है। जिसकी अधिकतम क्षमता 1000 कि. ग्रा. है और न्यूटन क्षमता 4 कि. ग्रा. है। सत्यापन मापमान अन्तराल (ई) 200 ग्रा. है। इसमें एक आधेयतुलन सुविधा है जिसका शत-प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक छायोफ (एलईडी) प्रदर्श तोलन परिणाम उपर्युक्त करता है। उपकरण 230 वोल्ट और 50 हर्टज प्रस्ताविती धारा विद्युत प्रदान पर कार्य करता है।

स्ट्राइंग एलेट को मुद्रांकित करने के अतिरिक्त कपड़पूर्ण व्यवहारों के लिए मशीन खो जाने को रोकने के लिए भी सीलबद्ध की जा सकती है।

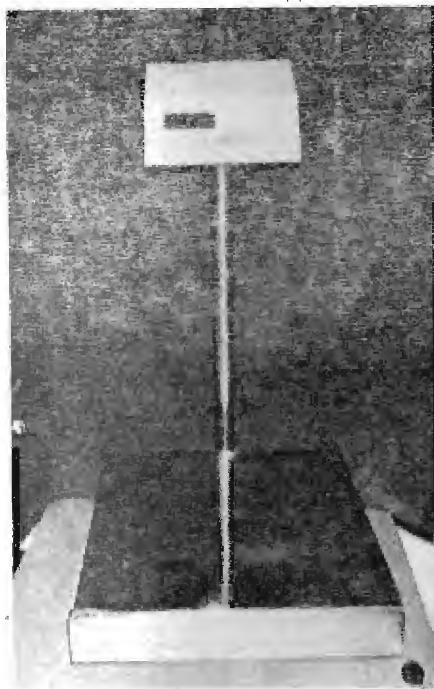
[फा.सं. डब्ल्यू एम-21(111)/2004]

पी० ए० कष्णामृति, निदेशक, विधिक माप विज्ञान

New Delhi, the 16th February, 2005

S.O. 1012.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of "VSPL-PT" series of medium accuracy (Accuracy class-III) and with brand name "WONDER" (hereinafter referred to as the said model), manufactured by M/s. Vel Systems Private Limited, # 8/19, Sony Complex, Reddy Street, Villivakkam, Chennai-600 049 and which is assigned the approval mark IND/09/2004/277;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 1000kg, and minimum capacity of 4kg. The verification scale interval (e) is 200g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, and 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg. and up to 3000kg, with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(111)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 25 फरवरी, 2005

का०आ० 1013.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपर्युक्तों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम को धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भैसर्स सुगर इकूपर्मेंट्स प्राइवेट लिमिटेड, रुड़की रोड, मुजफ्फरनगर-251002 उत्तर प्रदेश द्वारा विनिर्मित भैसर्स यथार्थता (यथार्थता वर्ग-III) वाले "अबार्ड" शृंखला के सदृशसूचन सहित तोलन उपकरण के माडल का, जिसके प्रागां का नाम "अबार्ड" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डो/09/2004/486 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।

उक्त मॉडल के पाउड लीवर के सिद्धान्त पर आधारित (यांत्रिक युल स्टीलयार्ड प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 30,000 कि.ग्रा. और न्यूनतम क्षमता 100 कि.ग्रा. है। सत्यापन मापमान अंतराल (इ) का मान 5 कि.ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारत प्रभाव है।



स्टाम्पिंग स्लेट को मुद्रांकित करने के अतिरिक्त कफटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम को धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के वैसे ही रेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 कि.ग्रा. या उससे अधिक के "इ" मान के लिए 500 से अधिक 10,000 तक की रेज में सत्यापन मापमान अंतराल (एन) सहित 5 टन से अधिक और 100 टन तक की अधिकतम क्षमता वाले हैं और "इ" मान 1×10^4 , 2×10^4 या 5×10^4 , के हैं, जो धनात्मक या क्रृत्यात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा.स. डब्ल्यू.एम-21(234)/2003]

पा० ए० कृष्णमूर्ति, निदेशक, विभिन्न माप विज्ञान

New Delhi, the 25th February, 2005

S.O. 1013.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of, non-automatic weighing instrument mechanical weighbridge-steelyard type with analogue indication belonging to medium accuracy (Accuracy class-III) of "AVARD" series with brand name "AVARD" (herein referred to as the said model), manufactured by M/s Sugar Equipments Private Limited, Roorkee Road, Muzaffarnagar-251 002, U.P. and which is assigned the approval mark IND/09/2004/486:

The said model is a non-automatic weighing instrument (mechanical weighbridge-steelyard type) based on the principles of compound levers with a maximum capacity of 30,000 kg and minimum capacity of 100kg. The verification scale interval (e) is 5kg. It has a tare device with a 100 percent subtractive retained tare effect.



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 5 tonne and up to 100 tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5 kg or more and with 'e' value 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principles, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(234)/2003]

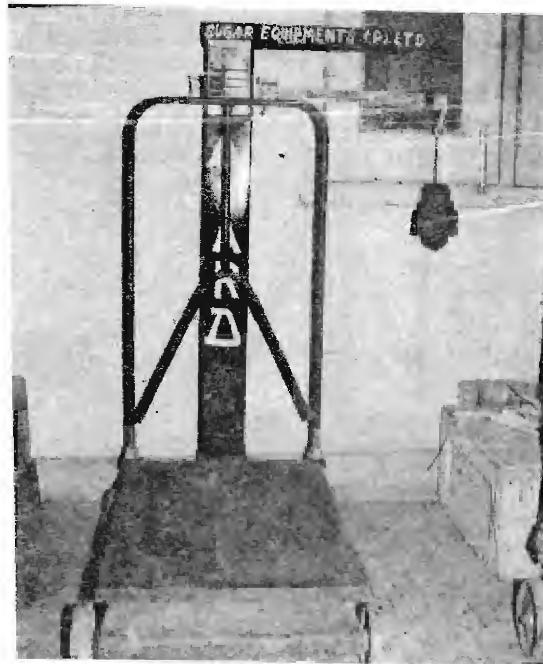
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 25 फरवरी, 2005

का०आ० 1014.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपर्योगों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सुगर इक्यूपर्मेंट्स प्राइवेट लिमिटेड, रुड़की रोड, मुजफ्फरनगर-251002 उत्तर प्रदेश द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "अवार्ड" शृंखला के सादृश्यसूचन सहित, अस्वचालित तोलन उपकरण (यांत्रिक प्लेटफार्म मशीन) के मॉडल का, जिसके ब्रांड का नाम "अवार्ड" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन विह आई एन डी/09/2004/485 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।

उक्त मॉडल यांत्रिक स्टीलयार्ड प्रकार का प्रो वेट आधारित कंपाउंड लीवर अस्वचालित तोलन उपकरण (यांत्रिक प्लेटफार्म मशीन) है। इसकी अधिकतम क्षमता 300 कि.ग्रा. और न्यूनतम क्षमता 2 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 100 ग्रा. है।



स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबंद भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्मित द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के बैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 100 से अधिक 10,000 तक की रेंज में सत्यापन मापमान अन्तराल (एन) सहित 50 कि.ग्रा. से अधिक और 500 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^4 , 2×10^4 या 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा.सं. डब्ल्यू एम-21(234)/2003]

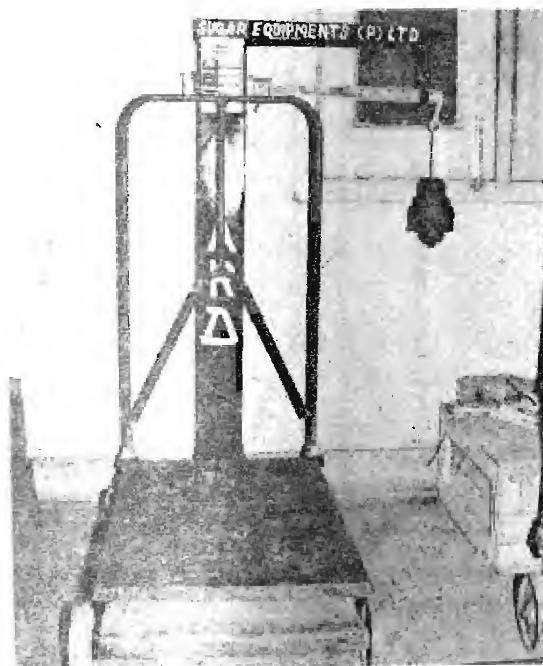
पौ० ए० कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 25th February, 2005

S.O. 1014.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic (Mechanical platform machine) weighing instrument with analogue indication of "AVARD" series of medium accuracy (Accuracy class-III) and with brand name "AVARD" (herein referred to as the said model), manufactured by M/s Sugar Equipments Private Limited, Roorkee Road, Muzaffarnagar-251 002, U.P. and which is assigned the approval mark IND/09/2004/485;

The said model is a mechanical steelyard type with pro-weights based upon compound lever non-automatic weighing instrument (Mechanical platform machine) with a maximum capacity of 300 kg and minimum capacity of 2 kg. The verification scale interval (e) is 100g.



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the power conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg and upto 500 kg with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(234)/2003]

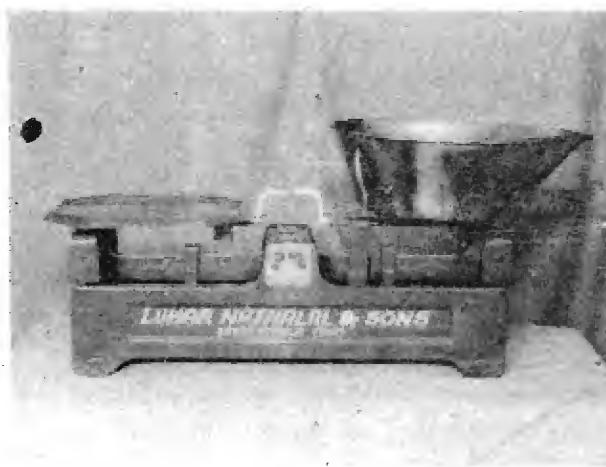
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 25 फरवरी, 2005

का०आ० 1015.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स लुहार नाथालाल एण्ड संस, अमजीबीनगर, सावरकुण्डला-364515 गुजरात द्वारा विनिर्मित गणक मशीन (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/384 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) एक गणक मशीन है जो दण्ड के सिद्धान्त पर कार्य करती है। इसकी अधिकतम क्षमता 5 कि.ग्रा. है। इसका ब्राण्ड का नाम “पोस्टमैन” है।



स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन की गणक मशीन भी होंगी जिनकी अधिकतम क्षमता 500 ग्रा. से 50 कि.ग्रा. तक की है।

[फा.सं. डब्ल्यू एम-21(227)/2004]

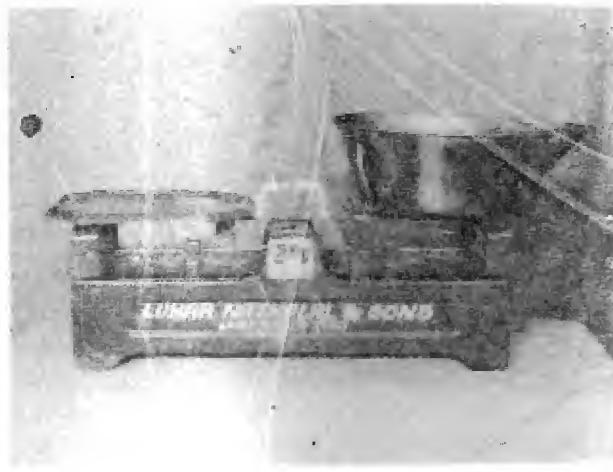
पी० ए० कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 25th February, 2005

S.O. 1015.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the Act, the Central Government hereby issues and publishes the certificate of approval of the model of counter machine (herein referred to as the said model), manufactured by M/s Luhar Nathalal & Sons, Shrumjivinagar, Savarkundla-364 515, Gujarat and which is assigned the approval mark IND/09/2004/384;

The said model (see the figure given below) is a counter machine working on the principle of beam with maximum capacity of 5 kg with brand name "POSTMAN".



In addition to sealing the stamping plate, the machine shall be sealed to prevent its opening for fraudulent practices.

Further, in exercise of the power conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the counter machine of similar make, accuracy and performance of same series with maximum capacity from 500g up to 50 kg, manufactured by the same manufacturer in accordance with the same principles, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(227)/2004]

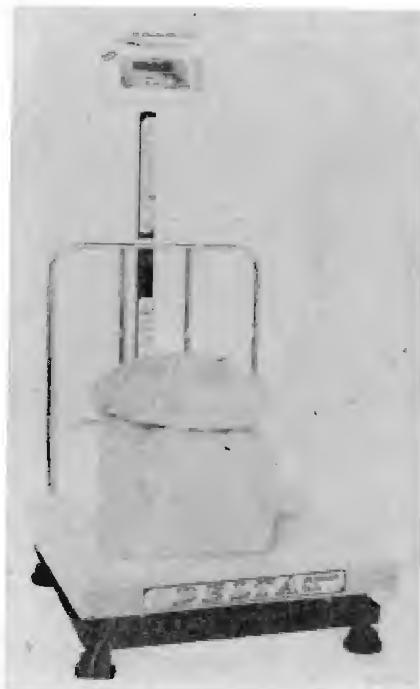
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 2 मार्च, 2005

का०आ० 1016.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसेस डेल्ड एंटरप्राइजेज, गोपाल बिल्डिंग, कचहरी गेट (परिचमी) के निकट, मेरठ कालिज के सामने, मेरठ-250001 उत्तर प्रदेश द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “डी डब्ल्यू पी” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (स्लेटफार्म प्रकार) के मॉडल का, जिसके बांड का नाम “डेल्डा” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2004/456 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है।

उक्त मॉडल विकृति (स्ट्रेन) गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (स्लेटफार्म प्रकार का) है। इसकी अधिकतम क्षमता 500 कि.ग्रा. और न्यूनतम क्षमता 2 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 100 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यक्तिनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



स्टाम्पिंग स्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए मुद्रांकन भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनियमता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. से 2 ग्रा. तक “ई” मान के लिए 100 से 10,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में मापमान (एन) अंतराल सहित 50 कि.ग्रा. से अधिक और 1000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^4 , 2×10^4 या 5×10^4 , के हैं, जो धनात्मक या शून्य के समतुल्य हैं।

[फा.सं. डब्ल्यू एम-21(40)/2003]

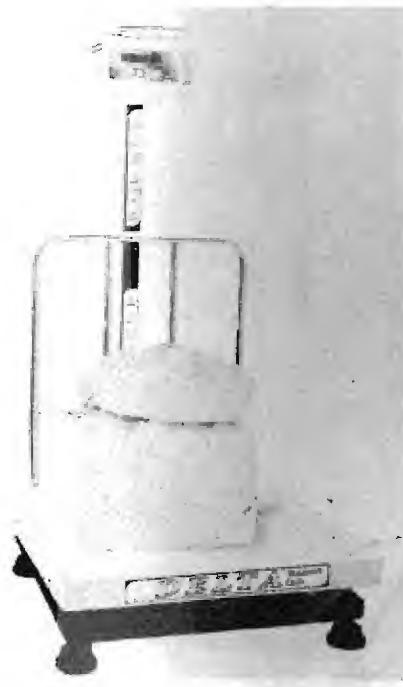
पी० ए० कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 2nd March, 2005

S.O. 1016.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic (Platform type) weighing instrument with digital indication of "DWP" series of medium accuracy (Accuracy class III) and with brand name "DELTA" (herein referred to as the said model), manufactured by M/s Delta Enterprises, Gopal Building, Near Kutchery Gate (W), Opp. Meerut College, Meerut-250 001, U.P. and which is assigned the approval mark IND/09/2004/456;

The said model is a strain gauge type load cell base on non-automatic weighing instrument (Platform type) with a maximum capacity of 500kg and minimum capacity of 2kg. The verification scale interval (E) is 100g. It has a tare device with a 100 per cent subtraction retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230 volts and 50-Hertz alternate current power supply.



In addition to sealing the stamping plate, scaling shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make and performance of same series with maximum capacity above 50kg and up to 1000kg with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg to 2g or with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which the approved Model has been manufactured.

[F. No. WM-21(40)/2003]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

(भारतीय मानक व्यूरो)

नई दिल्ली, 28 फरवरी, 2005

का. आ. 1017.—भारतीय मानक व्यूरो नियम 1987 के नियम 7 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	IS 7884 : 2004 शैम्पू पृष्ठ सक्रियक से बना तीसरा पुनरीक्षण	कुछ नहीं	नवम्बर 2004
2.	IS 1448 [P : 109] : 2004/ISO 3012 : 1999 पैट्रोलियम और उत्पादों की परीक्षण पद्धति [पी. 109] पैट्रोलियम उत्पाद हल्के और मध्यम आसुत ईंधनों में थायॉल (मरकैप्टन) सल्फर ज्ञात करना—विभवमितीय पद्धति (प्रथम पुनरीक्षण)	कुछ नहीं	दिसम्बर 2004
3.	IS 13360 (Part 9/Sec. 1) : 2004/ISO 489 : 1999 प्लास्टिक-परीक्षण पद्धतियाँ भाग 11 प्रकाशिक गुणधर्म वर्ग 1 अपवर्तनांक ज्ञात करना	कुछ नहीं	दिसम्बर 2004
4.	IS 13360 (Part 11/Sec. 9) : 2004/ISO 489 : 1999 प्लास्टिक-परीक्षण पद्धतियाँ भाग 9 विशेष गुणधर्म वर्ग 9 कैपिलरी विस्कोमीटर के उपयोग से तनु विलयन में पॉलिमर की श्यानता ज्ञात करना—साधारण सिद्धांत	कुछ नहीं	दिसम्बर 2004

इस भारतीय मानक की प्रतियाँ भारतीय मानक व्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चाण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : पीसीडी/जी-7 (गजट)]

डा. (श्रीमती) विजय मलिक, निदेशक एवं प्रमुख (पीसीडी)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 28th February, 2005

S.O. 1017.—In pursuance of clause (b) of sub-rule (1) of Rules (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. & year and title of the Indian Standards Established	No. & year of Indian Standards if any. Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 7884 : 2004 Shampoo. Surfactant based—Specification (third revision)	None	November 2004
2.	IS 1448 [P : 109] 2004/ISO 3012 : 1999 Methods of test for petroleum and its products [P : 109] Petroleum Products—Determination of thiol (mercaptan) sulphur in light and middle distillate fuels—Potentiometric method	None	December 2004

(1)	(2)	(3)	(4)
3.	IS 13360 (Part 9/Sec. 1) : 2004/ISO 489 : 1999 Plastics—Methods of testing Part 9 Optical properties Sec. 1 Determination of refractive index	None	December 2004
4.	IS 13360 (Part 11/Sec. 9) : 2004/ISO 489 : 1999 Plastics—Methods of testing Part 11 Special properties Sec. 9 Determination of the viscosity of polymers in dilute solution using capillary viscometers—General principle	None	December 2004

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolcatta, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. PCD/G-7 (Gazette)]

DR. (MRS.) VIJAY MALIK, Director & Head (PCD)

नई दिल्ली, 28 फरवरी, 2005

का. आ. 1018.—भारतीय मानक व्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानक (कों) में संशोधन किया गया/किये गए हैं :

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	IS 5757 : 1992 पाईन का तेल, सुगन्धित ट्रेणी—विशिष्ट (दूसरा पुनरीक्षण)	संशोधन संख्या 2, जनवरी 2005	तत्काल प्रभाव से
2.	IS 2089 : 1977 सामान्य प्रूफ कैनवास/डक और पालिन्स टारपोलीन्स के लिए मानक (दूसरा पुनरीक्षण)	संशोधन संख्या 2, फरवरी 2005	तत्काल प्रभाव से

इन संशोधनों की प्रतियाँ भारतीय मानक व्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, पटना, पुणे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : पीसीडी/जी-7 (गजट)]

डा. (श्रीमती) विजय मलिक, निदेशक एवं प्रमुख (पीसीडी)

New Delhi, the 28th February, 2005

S.O. 1018.—In pursuance of clause (b) of sub-rule (1) of Rules (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 5757 : 1992 Pine Oil, Perfumery grade—Specification	Amendment No. 2 January 2005	With immediate effect
2	IS 2089 : 1977 Specification for Common proofed canvas/duck and paulins (Tarpaulins) (second revision)	Amendment No. 2 February 2005	With immediate effect

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. PCD/G-7 (Gazette)]

DR. (MRS.) VIJAY MALIK, Director & Head (PCD)

नई दिल्ली, 4 मार्च, 2005

का. आ. 1019.—भारतीय मानक व्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गये हैं मानक (कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	8324 : 1988 गैर अंशशोधित वृताकार इस्पात लिंक उत्थापक चेन और चेन स्लिंग के सुरक्षित उपयोग और रख-रखाव की रीति संहिता (प्रथम पुनरीक्षण)	संशोधन सं. 1, जनवरी 2005	31 जनवरी 2005
2.	8534 (भाग 2) : 1995 खान टब युग्मन और कर्पण शालाकाएँ—भाग 2 सी लिंक और डी शैकल टाइप (प्रथम पुनरीक्षण)	संशोधन सं. 1, जनवरी 2005	31 जनवरी 2005
3.	8534 (भाग 6) : 1995 खान टब युग्मन और कर्पण शालाकाएँ—भाग 6 हुक और डी—शैकल टाइप	संशोधन सं. 1, दिसम्बर 2004	31 दिसम्बर 2004
4.	15369 : 2003 वाल्ट्स (कोष-कक्ष) की संरचना की रीति संहिता	संशोधन सं. 1, दिसम्बर 2004	31 दिसम्बर 2005

इस संशोधन की प्रतियोगी भारतीय मानक व्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, पटना, पुणे तथा तिरुवनन्तपुरम में विक्री हेतु उपलब्ध हैं।

[संदर्भ : एम. ई. डी./जी-2 : 1]

ए. एस. बसु, वैज्ञानिक एवं प्रमुख (यांत्रिक इंजी. विभाग)

New Delhi, the 4th March, 2005

S.O. 1019.—In pursuance of clause (b) of sub-rule (1) of Rules (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 8324 : 1988 Code of practice for safe use and maintenance on non-calibrated round use steel link lifting chain and chain slings (first revision)	Amendment No. 1 January 2005	31 January 2005
2.	IS 8324 (Part 2) : 1995 Mine tub couplings and drawbars Part 2 C-Link and D-Shakle type (first revision)	Amendment No. 1 January 2005	31 January 2005
3.	IS 8534 (Part 6) : 1995 Mine tub couplings and drawbars Part 6 Hook and D-Shakle type	Amendment No. 1 December 2004	31 December 2004
4.	IS 15369 : 2003 Code of practice for construction of vault (strong-room)	Amendment No. 1 December 2004	31 December 2004

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. MED/G-2 : 1]

A. S. BASU, Scientist & Head (Mech. Engg. Deptt.)

नई दिल्ली, 4 मार्च, 2005

का. आ. 1020.—भारतीय मानक व्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	15553 : 2004 आलेखी प्रौद्योगिकी—प्रक्रम नियंत्रण—आफसेट प्लेट बनाना	—	31 दिसम्बर 2004
2.	15560 : 2005 : 160 टन तक के शैंक युक्त प्वाइंट हुक—विशिष्टि	आई एस 3815 : 1969, IS 6294 : 1971 31 जनवरी 2005 IS 8610 : 1977	

इस भारतीय मानक की प्रतियाँ भारतीय मानक व्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, पटना, पुणे तथा तिरुचनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : एम. ई. डी./जी-2 : 1]

ए. एस. बसु, वैज्ञानिक एवं प्रमुख (यांत्रिक इंजी. विभाग)

New Delhi, the 4 March, 2005

S.O. 1020.—In pursuance of clause (b) of sub-rule (1) of Rules (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards Established	No. & year of Indian Standards if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	15553 : 2004 Graphic technology—Process control Offset plate making	—	31 December 2004
2.	15560 : 2005 Point hooks with sharp up to 160 tonne—Specification	Superseding IS 3815 : 1969, IS 6294 : 1971 and IS 8610 : 1977	31 January 2004

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. MED/G-2 : 1]

A. S. BASU, Scientist & Head (Mech. Engg. Deptt)

नई दिल्ली, 4 मार्च, 2005

का. आ. 1021.—भारतीय मानक व्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में एतद्वारा अधिसूचित किया जाता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं, वे रद्द कर दिए गए हैं और वापस ले लिये गए हैं :—

अनुसूची

क्रम सं.	रद्द किये गये मानक की संख्या और वर्ष	भारत के राजपत्र भाग 2, खंड 3, उपखंड (ii) में का.आ. संख्या और	टिप्पणी
(1)	(2)	(3)	(4)
1.	विशेष प्रकाशन एस.पी. (QWASM) 56 : 1994 ट्यूब/बोर वैल का स्थान, प्रचालन और रख-रखाव— दिशा निर्देश	—	विशेष प्रकाशन में सुख्तगतः समय-समय पर संशोधित किए गए संबद्ध राष्ट्रीय मानकों से लिए गए सारांश शामिल किए जाते हैं। प्रकाशन में दी गई सामान्य जानकारी संबंधित तकनीकी पाठ्य पुस्तकों में उपलब्ध है। इस विशेष प्रकाशन का पुनरीक्षण, कार्य को दोहराना होगा, क्योंकि जानकारी संबद्ध राष्ट्रीय मानकों और अन्य प्रकाशकों में उपलब्ध हैं।

[संदर्भ : एम. इ. डी./जी-2 : 1]

ए. एस. बसु, वैज्ञानिक एवं प्रमुख (यांत्रिक इंजी. विभाग)

New Delhi, the 4th March, 2005

S.O. 1021.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, it is hereby notified that the Indian Standards, Particulars of which are mentioned in the Schedule give hereafter, have been cancelled and stand withdrawn.

SCHEDULE

Sl. No.	No. & Year of the Indian Standards Cancelled	S. O. No. & Date published in the Gazette of India, Part-II, Section-3, sub-section (ii)	Remarks
(1)	(2)	(3)	(4)
1.	Special Publication 'SP' (QAWSM) 56 : 1994 Location, operation and maintenance of tube/bore wells—Guidelines	—	The special publication covered mainly extracts taken from the related national standards which are revised from time to time. The general information contained in the publication is available in relevant technical text books. Revision of this publication would be duplication of work as the information is available in related national standards and other publications.

[Ref. MED/G-2 : 1]

A. S. BASU, Scientist & Head (Mech. Engg. Deptt)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय
नई दिल्ली, 7 मार्च, 2005

का. आ. 1022.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि मध्य प्रदेश राज्य में मांगल्या (इंदौर) संस्थापन से हरियाणा राज्य में पियाला तथा दिल्ली राष्ट्रीय राजधानी क्षेत्र में बिजवासन तक पेट्रोलियम उत्पादों के परिवहन के लिए भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जो इससे उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री लाल सिंह, सक्षम प्राधिकारी, मुख्य-मांगल्या पाइपलाइन विस्तार परियोजना, भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड, प्लाट नं.-590, सेक्टर 21 ए, फरीदाबाद-121001 (हरियाणा) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील बल्लभगढ़	जिला : फरीदाबाद	राज्य : हरियाणा	
क्र. सं.	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हेक्टेयर में
1	2	3	4
1. हरफला	26/16/2	0.0650	
	17	0.0050	
	23	0.0280	
	24	0.1380	
	25	0.0790	72 (रेलवे लाइन) 0.0810
	25/20	0.0160	75 (रास्ता) 0.0460
	21	0.1310	78 (रास्ता) 0.0050
	22	0.0010	79 (सरकारी जमीन) 0.0180
	29/1	0.0280	80 (सरकारी जमीन) 0.0180
	2	0.00150	106 (सरकारी जमीन) 0.0280
2. पियाला	18/5	0.0620	110 (सरकारी जमीन) 0.0050
	13/14	0.0290	
	16	0.0150	3. मोहला 57/7 0.0610
	17	0.1550	8 0.1420
	18	0.1590	9 0.0740
	19	0.0590	10 0.0080
	21	0.1390	11 0.1420

1	2	3	4
2. पियाला—(जारी)	22	0.1010	
	24	0.0030	
	25	0.1270	
	5/2	0.0930	
	8	0.00750	
	9	0.0100	
	13	0.0750	
	18	0.0020	
	12/23	0.0130	
	24	0.0280	
	25	0.01420	
	19/2	0.0740	
	3	0.1390	
	4	0.0250	
	9	0.0740	
	11/1	0.0310	
	11/2	0.1100	
	20/14	0.0680	
	15	0.1470	
	17/1	0.1100	
	17/2	0.0190	
	18	0.1400	
	19	0.0200	
	22	0.0150	
	23	0.0100	
	23/1/2	0.1000	
	1/1	0.0490	
	22/5/1	0.0290	
	5/2	0.1270	
	4	0.780	
	7	0.0820	
	8	0.0720	
	16/7	0.0550	
	8	0.0690	
	13	0.0550	
	14	0.0100	
	72 (रेलवे लाइन)	0.0810	
	75 (रास्ता)	0.0460	
	78 (रास्ता)	0.0050	
	79 (सरकारी जमीन)	0.0180	
	80 (सरकारी जमीन)	0.0180	
	106 (सरकारी जमीन)	0.0280	
	110 (सरकारी जमीन)	0.0050	
	57/7	0.0610	
	8	0.1420	
	9	0.0740	
	10	0.0080	
	11	0.1420	
	12	0.0760	

1	2	3	4	1	2	3	4
3.	मोहला—(जारी)	13	0.0080	4.	सीकरी—(जारी)	14/1	0.0120
		56/11	0.0105			14/2	0.0090
		12	0.0740			19	0.1060
		13	0.0970			20	0.0960
		14	0.1500			21/1	0.0220
		15	0.1500			21/2	0.0340
		17	0.0060			60/21	0.0690
		18	0.0560			22/1	0.0120
		19	0.0790			22/2	0.0280
		20	0.1420			23	0.0900
		55/16	0.1500			24	0.0960
		17	0.1500			25	0.1590
		18	0.1070			59/22	0.0050
		19	0.0840			23	0.0440
		20	0.0105			59/24	0.1000
		21	0.0940			25	0.1100
		22	0.0810			68/1	0.1330
		23	0.0460			2	0.1410
		24	0.0030			3	0.0980
		54/16	0.1260			4	0.0460
		17	0.0120			67/1/1	0.0690
		18	0.0350			2/1	0.0160
		23	0.0440			2/3	0.0190
		24	0.1290			3	0.0510
		25	0.1350			4	0.0470
		73 (सरकारी जमीन)	0.1580			5	0.0060
		83 (रास्ता)	0.2290			81 (रस्ता)	0.0030
4.	सीकरी	49/8	0.0820			80 (राष्ट्रीय राजमार्ग)	0.0730
		9	0.0530			87 (सरकारी जमीन)	0.0510
		11	0.1470			100 (सरकारी जमीन)	0.0130
		12	0.0990	5.	झीग	84/2	0.1030
		20/1	0.0030			9	0.1100
		50/15/2	0.0140			80/1	0.1090
		16/1	0.0930			10	0.1090
		17	0.1360			11	0.1070
		18	0.0290			19	0.0220
		22	0.1070			20	0.0850
		23	0.1330			21	0.0140
		24	0.0030			22	0.0960
		62/1/1	0.0960			74/5	0.1050
		1/2	0.0450			6	0.1110
		2	0.0440			15	0.1100
		61/5/2	0.0460			16	0.0090
		6	0.1030			25	0.0240
		7	0.1350			73/20	0.0050
		8/1	0.0030			21	0.0310
		8/2	0.00030			61/4	0.1060
		12	0.0390			7	0.1050
		13	0.1460			14	0.1090

1	2	3	4	1	2	3	4
5.	डीग (जारी)	16	0.0090	6.	सागरपुर (जारी)	6	0.0220
		17	0.0990			37/1	0.1330
		24	0.0300			37/2	0.0330
		25	0.0740			8	0.0040
		53/3	0.0100			9	0.0550
		8	0.0950			10	0.0010
		13	0.0950			12	0.0210
		17	0.0080			13	0.1410
		53/18	0.0660			17	0.0950
		23	0.0310			18	0.0650
		24	0.0710			24	0.1170
		40/2	0.0380			25	0.0430
		40/3	0.0630			32/21	0.0770
		8	0.0940			33/11	0.1420
		9	0.0080			12	0.1450
		13	0.1070			13/1	0.0180
		18	0.0870			13/2	0.0210
		23	0.0990			16	0.1120
		31/2	0.0990			17/1	0.0280
		9	0.1010			17/2	0.1220
		12	0.1030			18	0.0610
		18	0.0080			19	0.0230
		19	0.0950			25	0.0650
		22	0.0670			34/6	0.0280
		23	0.0360			7	0.0581
		19/22	0.0600			14	0.0429
		92 (रास्ता)	0.0150			15	0.0834
		108 (रास्ता)	0.0380			86 (रास्ता)	0.0200
		126 (रास्ता)	0.0080			91 (रास्ता)	0.0200
6.	सागरपुर	48/10	0.0110			92 (रास्ता)	0.0280
		11	0.1320			172 (रास्ता)	0.0050
		19	0.0940			189 (रास्ता)	0.0050
		20	0.0690			195 (रास्ता)	0.0050
		22	0.1060			196 (रास्ता)	0.0100
		47/4	0.1380		7.	पहलादपुर	0.0030
		5	0.0250			7/22	0.0820
		6	0.1590			18/2	0.0050
		7	0.0050			9	0.1090
		15	0.0360			12	0.1090
		42/1	0.0040			18	0.0350
		10	0.1430			19	0.0740
		11	0.0500			22	0.0210
		12	0.1100			23	0.0880
		18	0.0720			21/3	0.1090
		19	0.0350			8	0.1090
		23	0.1360			13	0.1090
		24	0.0590			21/17	0.0350
		43/4	0.0100			18	0.0740
		5	0.1560			23	0.0350

1	2	3	4
7.	पहलादपुर (जारी) 24		0.0740
	31/4		0.1090
	7		0.1090
	14		0.1090
	15		0.0030
	16		0.0500
	17		0.0590
	24		0.0060
	25		0.1030
	33/5		0.1090
	6		0.1090
	15		0.1000
	16		0.1000
	25		0.0090
	34/11		0.0030
	20		0.0440
	21		0.1060
	41/1		0.1090
	9		0.0060
	10		0.1150
	11		0.0150
	12/1		0.0230
	12/2		0.0150
	12/3		0.0150
	19		0.1060
	22		0.0530
	23		0.0530
	43/3		0.1090
	7		0.0440
	8		0.0740
	13		0.0030
	14		0.1090
	16		0.0240
	17		0.1150
	24		0.0030
	25		0.1090
	49/5		0.0880
	6		0.0060
	48/1		0.0090
	10		0.0970
	11		0.1090
	48/12		0.0060
	19/1		0.0090
	19/2		0.0820
	20		0.0210
	22		0.1090
	23		0.0030
	51/2		0.0320
	3		0.0320
	62 (राजनाह)		0.0250

1	2	3	4
7.	पहलादपुर (जारी) 67 (रास्ता)		0.0050
	69 (रास्ता)		0.0070
	74 (रास्ता)		0.0050
	76 (रास्ता)		0.0050
	162 (रास्ता)		0.0050
	170 (रास्ता)		0.0050
	177 (रास्ता)		0.0050
	179 (रास्ता)		0.0050
	180 (रास्ता)		0.0020

[फा. सं. आर-31015/2/2005-ओ आर-II]

हरीश कुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 7th March, 2005

S.O. 1022.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Manglya (Indore) terminal in the State of Madhya Pradesh, an extension pipeline to Piyala in the State of Haryana and Bijwasan, NCT of Delhi should be laid by the Bharat Petroleum Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri LAL SINGH, Competent Authority, Mumbai—Manglya Pipeline Extension Project, Bharat Petroleum Corporation Limited, Plot No 590, Sector 21A, Faridabad-121001 (Haryana).

SCHEDULE

Tehsil : Ballabhgarh		District : Faridabad	State : Haryana
S. No.	Name of Village	Survey No.	Area in Hectare
1.	Harfala	26/16/2	0.0650
		17	0.0050
		23	0.0280
		24	0.1380

1	2	3	4	1	2	3	4
1.	Harfala (Contd.)	25 25/20 21 22 29/1 2	0.0790 0.0160 0.1310 0.0010 0.0280 0.0150	2.	Piyala (Contd.)	80 (Govt. Land) 106 (Govt. Land) 110 (Govt. Land) 57/7 8 9	0.0180 0.0280 0.0050 0.0610 0.1420 0.0740
2.	Piyala	18/5 13/14 16 17 18 19 21 22 24 25 5/2 8 9 13 18 12/23 24 25 19/2 3 4 9 11/1 11/2 20/14 15 17/1 17/2 18 19 22 23 23/1/2 1/1 22/5/1 5/2 4 7 8 16/7 8 13 14 72 (Railway Line) 75 (Rasta) 78 (Rasta) 79 (Govt. Land)	0.0620 0.0290 0.0150 0.1550 0.1590 0.0590 0.1390 0.1010 0.0030 0.1270 0.0930 0.0750 0.0100 0.0750 0.0020 0.0130 0.0280 0.1420 0.0740 0.1390 0.0250 0.0740 0.0310 0.1100 0.0680 0.1470 0.1100 0.0190 0.1400 0.0200 0.0150 0.0100 0.1000 0.0490 0.0290 0.1270 0.0780 0.0820 0.0720 0.0550 0.0690 0.0550 0.0100 0.0810 0.0460 0.0050 0.0180	3.	Mohla	56/11 10 11 12 13 14 15 17 18 19 20 21 17 18 19 20 18 19 20 55/16 17 18 19 20 21 22 23 24 54/16 17 18 23 24 25 73 (Govt. Land) 83 (Road) 49/8 9 11 12 20/1 50/15/2 16/1 17 18 22 23 24 62/1/1 1/2 2 61/5/2 6 7	0.0105 0.0080 0.1420 0.0760 0.0080 0.0970 0.1500 0.1500 0.0660 0.0560 0.0790 0.1420 0.1500 0.1500 0.0840 0.0105 0.0940 0.0810 0.0460 0.0030 0.1260 0.0120 0.0350 0.0440 0.1290 0.1350 0.1580 0.2290 0.0820 0.0530 0.1470 0.0990 0.0030 0.0140 0.0930 0.1360 0.0290 0.1070 0.1330 0.0030 0.0960 0.0450 0.0440 0.0460 0.1030 0.1350

1	2	3	4	1	2	3	4
4.	Seekri (Contd.)	8/1	0.0030	5.	Deeg (Contd.)	16	0.0090
		8/2	0.0030			17	0.0990
		12	0.0390			24	0.0300
		13	0.1460			25	0.0740
		14/1	0.0120			53/3	0.0100
		14/2	0.0090			8	0.0950
		19	0.1060			13	0.0950
		20	0.0960			17	0.0080
		21/1	0.0220			53/18	0.0660
		21/2	0.0340			23	0.0310
		60/21	0.0690			24	0.0710
		22/1	0.0120			40/2	0.0380
		22	0.0280			40/3	0.0630
		23	0.0900			8	0.0940
		24	0.0960			9	0.0080
		25	0.1590			13	0.1070
		59/22	0.0050			18	0.0870
		23	0.0440			23	0.0990
		59/24	0.1000			31/2	0.0990
		25	0.1100			9	0.1010
		68/1	0.1330			12	0.1030
		2	0.1410			18	0.0080
		3	0.0980			19	0.0950
		4	0.0460			22	0.0670
		67/1/1	0.0690			23	0.0360
		2/1	0.0160			19/22	0.0600
		2/3	0.0190			92 (Road)	0.0150
		3	0.0510			108 (Road)	0.0380
		4	0.0470			126 (Road)	0.0080
		5	0.0060	6.	Sagarpur	48/10	0.0110
		81 (Rasta)	0.0030			11	0.1320
		80 (N.H.)	0.0730			19	0.0940
		87 (Govt. Land)	0.0510			20	0.0690
		100 (Govt. Land)	0.0130			22	0.1060
5.	Deeg	84/2	0.1030			47/4	0.1380
		9	0.1100			5	0.0250
		80/1	0.1090			6	0.1590
		10	0.1090			7	0.0050
		11	0.1070			15	0.0360
		19	0.0220			42/1	0.0040
		20	0.0850			10	0.1430
		21	0.0140			11	0.0500
		22	0.0960			12	0.1100
		74/5	0.1050			18	0.0720
		6	0.1110			19	0.0350
		15	0.1100			23	0.1360
		16	0.0090			24	0.0590
		25	0.0240			43/4	0.0100
		73/20	0.0050			5	0.1560
		21	0.0310			6	0.0220
		61/4	0.1060			37/1	0.1330
		7	0.1050			37/2	0.0330
		14	0.1090				

1	2	3	4	1	2	3	4
6.	Sagarpur(Contd.)	8	0.0040	7.	Pahladpur(Contd.)	25	0.1030
		9	0.0550			33/5	0.1090
		10	0.0010			6	0.1090
		12	0.0210			15	0.1000
		13	0.1410			16	0.1000
		17	0.0950			25	0.0090
		18	0.0650			34/11	0.0030
		24	0.1170			20	0.0440
		25	0.0430			21	0.1060
		32/21	0.0770			41/1	0.1090
		33/11	0.1420			9	0.0060
		12	0.1450			10	0.1150
		13/1	0.0180			11	0.0150
		13/2	0.0210			12/1	0.0230
		16	0.1120			12/2	0.0150
		17/1	0.0280			12/3	0.0150
		17/2	0.1220			19	0.1060
		18	0.0610			22	0.0530
		19	0.0230			23	0.0530
		25	0.0650			43/3	0.1090
		34/6	0.0280			7	0.0440
		7	0.0581			8	0.0740
		14	0.0429			13	0.0030
		15	0.0834			14	0.1090
		86 (Rasta)	0.0200			16	0.0240
		91 (Road)	0.0200			17	0.1150
		92 (Road)	0.0280			24	0.0030
		172 (Rasta)	0.0050			25	0.1090
		189 (Rasta)	0.0050			49/5	0.0880
		195 (Rasta)	0.0050			6	0.0060
		196 (Rasta)	0.0100			48/1	0.0090
7.	Pahladpur	7/22	0.0030			10	0.0970
		18/2	0.0820			11	0.1090
		9	0.1090			48/12	0.0060
		12	0.1090			19/1	0.0090
		18	0.0350			19/2	0.0820
		19	0.0740			20	0.0210
		22	0.0210			22	0.1090
		23	0.0880			23	0.0030
		21/3	0.1090			51/2	0.0320
		8	0.1090			3	0.0320
		13	0.1090			62 (Distributory)	0.0250
		21/17	0.0350			67 (Rasta)	0.0050
		18	0.0740			69 (Rasta)	0.0070
		23	0.0350			74 (Rasta)	0.0050
		24	0.0740			76 (Rasta)	0.0050
		31/4	0.1090			162 (Rasta)	0.0050
		7	0.1090			170 (Rasta)	0.0050
		14	0.1090			177 (Rasta)	0.0050
		15	0.0030			179 (Rasta)	0.0050
		16	0.0500			180 (Rasta)	0.0020
		17	0.0590				
		24	0.0060				

नई दिल्ली, 9 मार्च, 2005

का.आ. 1023.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि मध्य प्रदेश राज्य में मांगल्या (इंदौर) संस्थापन से हरियाणा राज्य में पियाला तथा दिल्ली राष्ट्रीय राजधानी क्षेत्र में बिजवासन तक पेट्रोलियम उत्पादों के परिवहन के लिए भारत पेट्रोलियम कार्पोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाइन बिछाइ जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जो इससे उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री लाल सिंह, सक्षम प्राधिकारी, मुम्बई—मांगल्या पाइपलाइन विस्तार परियोजना, भारत पेट्रोलियम कार्पोरेशन लिमिटेड, 179, विश्व लक्ष्मी नगर, मथुरा-281004 (यू.पी.) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : मथुरा ज़िला : मथुरा राज्य : उत्तर प्रदेश

क्र.सं.	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल है. में
1	2	3	4
1.	अरहेरा	115	0.0510
		116	0.2680
		118	0.0230
	119(कच्ची सड़क)		0.0800
		160	0.0360
		122	0.0110
		120	0.0890
		222	0.1560
		226	0.0180
	228(कच्ची सड़क)		0.0120
		221	0.0440
		227	0.0300
		237	0.0940
		239	0.0080
		213	0.1440
		212	0.1800
		242	0.0150
		317	0.0720
		241	0.0100
		316	0.0200
		315	0.0120
		314	0.4470
		361	0.0100

1	2	3	4
1.	अरहेरा (जारी)	362	0.1520
		363	0.3030
		364	0.0650
		372	0.3080
		369	0.0120
		375	0.1440
		374	0.0080
2.	गणेशरा	40	0.1010
		39	0.0720
		42	0.0150
		47	0.3320
		46	0.2740
	137(कच्ची सड़क)		0.0150
		132	0.4400
		141	0.1010
		159	0.2960
		157	0.0220
		158	0.2310
		161	0.1300
		163	0.0150
3.	मधेरा	341	0.0510
		340	0.3460
		343	0.0940
		338	0.3960
		337	0.1440
		336	0.0800
		142	0.5040
		145	0.1080
		150	0.0940
		131	0.1800
		138	0.3240
	4.	मासूमनगर	137
			0.3600
		136	0.0720
		162	0.0510
		170	0.2520
		171	0.3600
		172	0.0510
		224	0.0650
		225	0.0150
		226	0.1370
		227	0.1440
		228	0.0870
	216(कच्ची सड़क)		0.0150
5.	चाटी	794	0.0360
		798	0.0080
		796	0.1370
		797	0.0290
		813	0.0080
		806	0.2160
		807	0.0200

1	2	3	4	1	2	3	4
5.	वाटी (जारी)	802(कच्ची सड़क)	0.0150	5.	वाटी (जारी)	1120	0.0510
		700	0.2740			1119	0.0080
		699	0.1300			1229	0.0150
		701(कच्ची सड़क)	0.0080			1273	0.0360
		698	0.0360			1274(कच्ची सड़क)	0.0080
		702	0.1440			1279	0.0220
		679(कच्ची सड़क)	0.0150			1278	0.0650
		678	0.1230			1277	0.0800
		677	0.0870			1276	0.0440
		676	0.0800			1275	0.0800
		652(कच्ची सड़क)	0.0080			1339(कच्ची सड़क)	0.0100
		632	0.0440			1274(कच्ची सड़क)	0.0030
		633	0.3390			1343	0.1590
		628	0.0150			1340	0.2160
		618	0.3680			1379(कच्ची सड़क)	0.0100
		617	0.0290			1338	0.0230
		608(कच्ची सड़क)	0.0080			1337(कच्ची सड़क)	0.0080
		607(कच्ची सड़क)	0.0150			1380	0.0650
		606	0.0290			1381	0.0720
		447	0.1010			1382	0.0290
		446	0.0940			1383	0.0050
		445	0.0870			1386	0.0150
		444	0.1010			1387	0.1590
		443	0.0870			1376	0.0080
		436	0.0080			1404	0.0720
		431	0.0220			1405	0.0020
		430	0.1590			1409(कच्ची सड़क)	0.0080
		429	0.1950			1410	0.0510
		428(कच्ची सड़क)	0.0080			1411	0.0800
		426	0.0440			1412	0.0870
		423	0.0080			1413	0.0080
		421	0.1300			1419(कच्ची सड़क)	0.0080
		422(कच्ची सड़क)	0.0580			1421	0.0800
		399	0.1370			1422	0.0510
		398	0.0080			1426(कच्ची सड़क)	0.0080
		397	0.0360			1427	0.0870
		402	0.0150	6.	तारसी	100	0.0960
		1169	0.0220			99	0.0940
		1168	0.0780			98	0.1160
		1170	0.0440	7.	धनगाँव	452	0.2310
		1167(कच्ची सड़क)	0.0150			453	0.1800
		1164	0.2090			454	0.1950
		1165	0.0200			456	0.1660
		1162	0.0800			455(कच्ची सड़क)	0.0150
		1161	0.0080			457	0.0060
		1124	0.0870			449A	0.3240
		1125	0.0020			449B	0.0180
		1123	0.1080			435(सड़क)	0.0490
		1122	0.0030			269	0.2240
		1121(कच्ची सड़क)	0.0080			268	0.1440

1	2	3	4	1	2	3	4
7.	धनगाँव (जारी)	265(कच्ची सड़क)	0.0200	9.	भैंसा	639	0.0870
		263	0.2380			630	0.0360
		262	0.0510			616	0.0020
		261	0.0340			611	0.2160
		260	0.2740			610	0.0080
		245(सड़क)	0.0360			609	0.0080
		200	0.0130			607	0.1660
		197	0.0360		635(कच्ची सड़क)		0.0150
		199(कच्ची सड़क)	0.0120		636(कच्ची सड़क)		0.0080
		202	0.1950			634	0.0870
		196	0.0720		633(कच्ची सड़क)		0.0080
		195	0.2160			629	0.1800
		194	0.0070		623(कच्ची सड़क)		0.0120
		167(कच्ची सड़क)	0.0130		558(कच्ची सड़क)		0.0150
		166	0.1950		589(कच्ची सड़क)		0.0080
		165	0.1590			525	0.0290
		158(कच्ची सड़क)	0.0100			524	0.1730
		154	0.0720		523(कच्ची सड़क)		0.0080
		155	0.2090			522	0.2310
		149	0.0200			552	0.0020
		147	0.1950			551	0.0720
		146	0.1440			550	0.1080
		144	0.0780		517(कच्ची सड़क)		0.0220
		116	0.2670		511(कच्ची सड़क)		0.0220
		145(कच्ची सड़क)	0.0220			444	0.2520
		136(कच्ची सड़क)	0.0220		440(कच्ची सड़क)		0.0080
		133	0.2090			443	0.0510
		132	0.0010			305	0.1730
		131(कच्ची सड़क)	0.0230			276	0.1250
		126	0.2160			274	0.1080
		125	0.2160			272	0.0650
8.	सलेमपुर	184	0.2890			270	0.2450
		175	0.1080			259	0.0580
		174(कच्ची सड़क)	0.0100			258	0.0250
		173	0.2810		200(कच्ची सड़क)		0.0080
		166	0.0100			144	0.0100
		164	0.2160			143	0.1800
		207	0.0050			142	0.1152
		206	0.3320			73	0.1200
		205	0.2160		74(कच्ची सड़क)		0.0100
		203	0.1010			513	0.1520
		67	0.3530			512	0.3390
		66	0.1680			510	0.3240
		12	0.0260		439(कच्ची सड़क)		0.0080
		8	0.1080		875(कच्ची सड़क)		0.0080
		165	0.0010		277(कच्ची सड़क)		0.0080
		56	0.0220		268(कच्ची सड़क)		0.0080
		210	0.0200		269(कच्ची सड़क)		0.0080
		186	0.0080			199	0.0360
		68	0.0020			156	0.0510

1	2	3	4	1	2	3	4	
9.	भैसा (जारी)	155 154 145(कच्ची सड़क) 136(कच्ची सड़क) 132 74(कच्ची सड़क) 134(कच्ची सड़क) 133(कच्ची सड़क) 75 59 3(कच्ची सड़क) 2(कच्ची सड़क) 105(कच्ची सड़क) 107 71(कच्ची सड़क) 58(कच्ची सड़क) 57 55 41(कच्ची सड़क) 33 34 35 36 1	0.0740 0.0800 0.0080 0.0080 0.2880 0.0090 0.0080 0.0080 0.2380 0.2240 0.0080 0.0080 0.0080 0.0120 0.0080 0.0080 0.2520 0.0720 0.0870 0.0700 0.0080 0.1310 0.0480 0.0760 0.0870 0.0080 0.0800 0.0360 0.2960 0.0400 0.0782	12. बमूरी मुहाल गर्वी (जारी)	403 402 398 399 445 369 368 367 207(कच्ची सड़क)	0.1296 0.0980 0.0040 0.0040 0.0100 0.2520 0.1440 0.0936 0.0120 0.0460 208 209 210 211 212(कच्ची सड़क)	0.0120 0.0460 0.0720 0.0870 0.0700 0.0080 0.1310 0.0480 0.0760 0.0870 213 217 394(ग.रा. 2) 214 215 220 221 218 675 677	0.0120 0.0460 0.0720 0.0870 0.0700 0.0080 0.1310 0.0480 0.0760 0.0870 0.0720 0.0870 0.0080 0.0800 0.0360 0.2960 0.0400 0.0782
10.	धाना शमसाबाद	185 184 161(रेल) 149 150 171 29 27 23 22(कच्ची सड़क) 15	0.2400 0.0200 0.0440 0.1080 0.3240 0.0720 0.4680 0.2670 0.0800 0.0100 0.2880	14. धाना तेजा	685(कच्ची सड़क) 165 166 171 172 173 174 180 181 182 184 185 186 187	678 682 683 803 689 688 686 685(कच्ची सड़क) 165 166 171 172 173 174 180 181 182 184 185 186 187	0.2880 0.0080 0.0130 0.0350 0.0150 0.0800 0.0360 0.0080 0.0140 0.0100 0.0010 0.1250 0.0090 0.0070 0.0080 0.0050 0.1600 0.0720 0.0150 0.0130 0.0660	
11.	इकदन्ता	3 4 8 9 10 11 12 14 18 17	0.2190 0.0080 0.0250 0.1160 0.1230 0.0580 0.0650 0.0650 0.2220 0.0010		484 207 205 495 497	484 207 205 495 497	0.0130 0.0500 0.1180 0.3860 0.0720	
12.	बमूरी मुहाल-गर्वी	377 438 378 405 404	0.2664 0.0320 0.0216 0.0648 0.0864					

1	2	3	4	1	2	3	4
14.	धाना तेजा (जारी)	494	0.0220	16.	पीलुआ सादिकपुर (जारी)	604	0.0250
		534	0.0260			501	0.2300
		151	0.0720			502	0.2300
		496	0.0020			497	0.0120
		583	0.0360			493	0.0850
		498	0.0220			494	0.0080
		585	0.1230			482	0.0870
		536	0.0080			508	0.0010
		559	0.0060			509	0.1160
		537	0.0150		468(कच्ची सड़क)		0.0150
		450	0.1410			467	0.2170
		449	0.0880			522	0.2380
		448	0.0360			528	0.1340
		444	0.1800			587	0.0970
		443	0.1080			529	0.2510
15.	मुख्यउद्दीनपुर	199	0.0780			586	0.1310
		200	0.0640		570(कच्ची सड़क)		0.0720
		203	0.0690			571	0.0720
		202	0.0790			573	0.3380
		209	0.0130			574	0.2810
		210	0.0470			575	0.0520
		212	0.0670			582	0.0510
		214	0.0650			583	0.0580
		215	0.0240			586	0.0440
		216	0.0340			682	0.0940
		222	0.4350			492	0.0290
		221	0.0710			530	0.0030
16.	पीलुआ सादिकपुर 22(कच्ची सड़क)		0.0360			491अ	0.1160
		29	0.2240			491ब	0.0020
		76	0.2380	17.	अडूकी	175	0.2270
		70	0.0380			173	0.0710
		66	0.1240			172	0.2380
		30	0.1440			38	0.0810
		63	0.2240			131	0.0820
		61	0.0100			130	0.0360
		64	0.0720			72	0.0960
		120	0.2020			67	0.3030
		122	0.1670			68	0.6360
		124	0.0120			65	0.4540
	200(कच्ची सड़क)		0.0150		171(कच्ची सड़क)		0.0290
		203	0.1140		71(कच्ची सड़क)		0.0440
		201	0.2370			70	0.0650
		197	0.0800	18.	बाकरपुर	56	0.0180
		158	0.0250			32	0.3240
		156	0.0080		33(कच्ची सड़क)		0.0650
		157	0.0720			34	0.3030
		164	0.1560			36	0.0650
		163	0.0360			27	0.0220
		356	0.0170	19.	खेड़िया	64	0.1230
		685	0.0120			150	0.1370

1	2	3	4	1	2	3	4
19.	खेड़िया (जारी)	182	0.0150	20.	माहोली (जारी)	1035	0.0700
		8	0.2240			1033	0.0060
		188	0.0360			1034	0.2448
		91	0.0440			1037(रेड)	0.1000
		143	0.0650			1039(कच्ची सड़क)	0.0120
		33	0.0720			1044(कच्ची सड़क)	0.0144
	136(कच्ची सड़क)		0.0150			1042	0.0480
		137	0.0940			1043	0.1872
		150	0.0870			1045	0.3456
	74(कच्ची सड़क)		0.0290			1046	0.1584
		8	0.3600		1048(कच्ची सड़क)		0.0140
		150	0.3460			1050	0.0100
	100(कच्ची सड़क)		0.0150			1049	0.2304
		101	0.2310		1079(कच्ची सड़क)		0.0110
		96	0.3240			752	0.1800
	84(कच्ची सड़क)		0.0290		733(कच्ची सड़क)		0.0072
20.	माहोली	715(कच्ची सड़क)	0.0288			728	0.1152
		719	0.0960			727	0.0648
		720	0.0240			726	0.0648
		723	0.0072		726(कच्ची सड़क)		0.0072
		725	0.1584			725	0.1584
		713	0.0090		723(कच्ची सड़क)		0.0072
	1506(कच्ची सड़क)		0.0072			720	0.0240
		1484	0.0792			719	0.0816
	1483(कच्ची सड़क)		0.0090		715(कच्ची सड़क)		0.0288
		1482	0.0060			715	0.2740
		1481	0.3888		716(कच्ची सड़क)		0.0140
	1351(कच्ची सड़क)		0.0576			730	0.3030
		1350	0.1584		731(कच्ची सड़क)		0.0260
	1349(कच्ची सड़क)		0.0144			732	0.4900
		1348	0.0660		668(कच्ची सड़क)		0.0310
		1312	0.0936			215	0.3750
	1286(कच्ची सड़क)		0.0144			206	0.0420
		1287	0.0144			231	0.1290
		1307	0.0385		232		0.1080
		1306	0.2376			233	0.0190
		1305	0.0144		203(कच्ची सड़क)		0.0240
		1304	0.0792			184	0.4610
		1262	0.0390		अ (कच्ची सड़क)		0.0070
	1263(कच्ची सड़क)		0.0100			82	0.0720
		1277	0.2880			81	0.6120
		1278	0.0576			79	0.2090
	1279(कच्ची सड़क)		0.0100		65(कच्ची सड़क)		0.0440
		1285	0.0360			78	0.0080
		1284	0.2016			207	0.0090
		1283	0.0050			77	0.0590
		1017	0.2304			13	0.0650
		1018	0.0850			12	0.0220
	1030(कच्ची सड़क)		0.0144			125	0.0080
		1036	0.3888				

1	2	3	4	1	2	3	4
22.	सतोहा असारसुर	1043	0.0580	23.	छड़गाँव (जारी)	637(कच्ची सड़क)	0.0170
		1045	0.1010			641	0.2500
		1053	0.0870			639	0.3530
	176(रेड़)	0.0110				597	0.1230
	600	0.2880				550	0.0960
	628	0.0510				551	0.2670
	655	0.0400				553	0.2350
	656	0.0370		558(कच्ची सड़क)			0.0100
	657	0.0360				638	0.1080
	658	0.0530				600	0.0290
	660	0.2130		554(कच्ची सड़क)			0.0110
	668	0.3600				555	0.2380
	669(कच्ची सड़क)	0.0120				556	0.1370
	671	0.0800				562	0.3100
	219	0.0420		558(कच्ची सड़क)			0.0230
	1042	0.0720				557	0.0940
	1050	0.1900				447	0.0220
	601	0.0220				401	0.0270
	621	0.0150				440	0.1950
	627	0.2160		441(कच्ची सड़क)			0.0170
	648	0.1010				444	0.0440
	649(कच्ची सड़क)	0.0150				442	0.1590
	654	0.0080				443	0.2020
	672	0.1440				435	0.2340
	221(रेड़)	0.0220				431	0.3930
	218	0.0440				564	0.2810
	216	0.0280		445(कच्ची सड़क)			0.0150
	192	0.2550		434(कच्ची सड़क)			0.0130
	748(रेड़)	0.0330				436	0.0080
	754	0.1010	24.	ओल		136	0.1730
	758	0.0720				137	0.1370
	759	0.0260				144/2	0.0440
	760	0.0330				144/1	0.0940
	761	0.0380		143(कच्ची सड़क)			0.0100
	762	0.0670				145	0.2740
	813(कच्ची सड़क)	0.0110		110(कच्ची सड़क)			0.0220
	806	0.0830				109	0.2380
	808	0.0830				146	0.0230
	799	0.0710		108(कच्ची सड़क)			0.0220
	794	0.0110				107	0.1500
	217	0.0360		102(कच्ची सड़क)			0.0090
	728	0.0360				149	0.1730
	755	0.0360				150	0.0500
	756	0.0360				152	0.5910
	757	0.0290				189	0.0510
	807	0.0830				166	0.1800
23.	छड़गाँव	652	0.1900	25.	जैत	233(कच्ची सड़क)	0.0150
		653	0.1140			174	0.0800
		654	0.1880			235(कच्ची सड़क)	0.0150
		642	0.3950			204/1	0.0210

1	2	3	4
25.	जैत (जारी)	411	0.1260
		825	0.1130
		943	0.0680
	216(कच्ची सड़क)	0.0180	
		1249	0.0200
		412	0.1470
		1156	0.0510
	221(कच्ची सड़क)	0.0320	
		354	0.2480
	202/1(कच्ची सड़क)	0.0100	
		452	0.1690
	1122(कच्ची सड़क)	0.0230	
		1189	0.0610
		337	0.3060
	179(कच्ची सड़क)	0.0040	
		1245	0.2580
	188(कच्ची सड़क)	0.0280	
		668	0.0380
		667	0.0970
		948	0.1470
	189/1(कच्ची सड़क)	0.0330	
		127	0.0510
		1250	0.0100
	190/1(कच्ची सड़क)	0.0100	
		1079	0.1260
		1186	0.1110
	162/2(कच्ची सड़क)	0.0180	
		1186	0.0710
		1294	0.1830
		904	0.0180
		727	0.2270
	144/2(कच्ची सड़क)	0.0220	
		727	0.1190
	147/3	0.0080	
		124	0.0800
		289	0.0200
	147/2(कच्ची सड़क)	0.0150	
		1177	0.3030
		263	0.0050
	148(कच्ची सड़क)	0.0080	
	147(कच्ची सड़क)	0.0200	
		117	0.0330
		1164	0.2290
	141(कच्ची सड़क)	0.0290	
		1175	0.0080
		950	0.2190
		1158	0.0030
	1297(कच्ची सड़क)	0.0100	
	1298(कच्ची सड़क)	0.0030	

[फा. सं. आर-31015/3/2005-ओ. आर. II]

हरीश कुमार, अवर सचिव

New Delhi, the 9th March, 2005

S.O. 1023.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Manglya (Indore) terminal in the State of Madhya Pradesh, an extension pipeline to Piyala in the State of Haryana and Bijwasan in the NCT of Delhi should be laid by Bharat Petroleum Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule, may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri Lal Singh, Competent Authority, Mumbai-Manglya Pipeline Extension Project, Bharat Petroleum Corporation Limited, 179, Vishwa Laxmi Nagar, Mathura-281004 (Uttar Pradesh).

SCHEDULE

Tehsil : Mathura District : Mathura State : Uttar Pradesh

Sl. No.	Name of Village	Survey No.		Area in Hectare
		1	2	
1.	Arahera	115		0.0510
		116		0.2680
		118		0.0230
		119(C/T)		0.0800
		160		0.0360
		122		0.0110
		120		0.0890
		222		0.1560
		226		0.0180
		228(C/T)		0.0120
		221		0.0440
		227		0.0300
		237		0.0940
		239		0.0080
		213		0.1440
		212		0.1800
		242		0.0150
		317		0.0720
		241		0.0100

1	2	3	4	1	2	3	4
1. Arahera (Contd.)		316	0.0200	5. Vaati (Contd.)		797	0.0290
		315	0.0120			813	0.0080
		314	0.4470			806	0.2160
		361	0.0100			807	0.0200
		362	0.1520			802(C/T)	0.0150
		363	0.3030			700	0.2740
		364	0.0650			699	0.1300
		372	0.3080			701(C/T)	0.0080
		369	0.0120			698	0.0360
		375	0.1440			702	0.1440
		374	0.0080			679(C/T)	0.0150
2. Ganeshra		40	0.1010			678	0.1230
		39	0.0720			677	0.0870
		42	0.0150			676	0.0800
		47	0.3320			652(C/T)	0.0080
		46	0.2740			632	0.0440
		137(C/T)	0.0150			633	0.3390
		132	0.4400			628	0.0150
		141	0.1010			618	0.3680
		159	0.2960			617	0.0290
		157	0.0220			608(C/T)	0.0080
		158	0.2310			607(C/T)	0.0150
		161	0.1300			606	0.0290
		163	0.0150			447	0.1010
3. Maghera		341	0.0510			446	0.0940
		340	0.3460			445	0.0870
		343	0.0940			444	0.1010
		338	0.3960			443	0.0870
		337	0.1440			436	0.0080
		336	0.0800			431	0.0220
		142	0.5040			430	0.1590
		145	0.1080			429	0.1950
		150	0.0940			428(C/T)	0.0080
		131	0.1800			426	0.0440
		138	0.3240			423	0.0080
		137	0.3600			421	0.1300
		136	0.0720			422(C/T)	0.0580
4. Masumnagar		162	0.0510			399	0.1370
		170	0.2520			398	0.0080
		171	0.3600			397	0.0360
		172	0.0510			402	0.0150
		224	0.0650			1169	0.0220
		225	0.0150			1168	0.0780
		226	0.1370			1170	0.0440
		227	0.1440			1167(C/T)	0.0150
		228	0.0870			1164	0.2090
		216(C/T)	0.0150			1165	0.0200
5. Vaati		794	0.0360			1162	0.0800
		798	0.0080			1161	0.0080
		796	0.1370			1124	0.0870

1	2	3	4	1	2	3	4
5. Vaati (Contd.)		1125	0.0020	7. Dhangaon (Contd.)	449B	0.0180	
		1123	0.1080		435(Road)	0.0490	
		1122	0.0030		269	0.2240	
		1121(C/T)	0.0080		268	0.1440	
		1120	0.0510		265(C/T)	0.0200	
		1119	0.0080		263	0.2380	
		1229	0.0150		262	0.0510	
		1273	0.0360		261	0.0340	
		1274(C/T)	0.0080		260	0.2740	
		1279	0.0220		245(Road)	0.0360	
		1278	0.0650		200	0.0130	
		1277	0.0800		197	0.0360	
		1276	0.0440		199(C/T)	0.0120	
		1275	0.0800		202	0.1950	
		1339(C/T)	0.0100		196	0.0720	
		1274(C/T)	0.0030		195	0.2160	
		1343	0.1590		194	0.0070	
		1340	0.2160		167(C/T)	0.0130	
		1379(C/T)	0.0100		166	0.1950	
		1338	0.0230		165	0.1590	
		1337(C/T)	0.0080		158(C/T)	0.0100	
		1380	0.0650		154	0.0720	
		1381	0.0720		155	0.2090	
		1382	0.0290		149	0.0200	
		1383	0.0050		147	0.1950	
		1386	0.0150		146	0.1440	
		1387	0.1590		144	0.0780	
		1376	0.0080		116	0.2670	
		1404	0.0720		145(C/T)	0.0220	
		1405	0.0020		136(C/T)	0.0220	
		1409(C/T)	0.0080		133	0.2090	
		1410	0.0510		132	0.0010	
		1411	0.0800		131(C/T)	0.0230	
		1412	0.0870		126	0.2160	
		1413	0.0080		125	0.2160	
		1419(C/T)	0.0080	8. Salempur	184	0.2890	
		1421	0.0800		175	0.1080	
		1422	0.0510		174(C/T)	0.0100	
		1426(C/T)	0.0080		173	0.2810	
		1427	0.0870		166	0.0100	
6. Tarsi		100	0.0960		164	0.2160	
		99	0.0940		207	0.0050	
		98	0.1160		206	0.3320	
7. Dhangaon		452	0.2310		205	0.2160	
		453	0.1800		203	0.1010	
		454	0.1950		67	0.3530	
		456	0.1660		66	0.1680	
		455(C/T)	0.0150		12	0.0260	
		457	0.0060		8	0.1080	
		449A	0.3240		165	0.0010	

1	2	3	4	1	2	3	4
8.	Salempur (Contd.)	56	0.0220	9.	Bhainsa (Contd.)	268(CT)	0.0080
		210	0.0200			269(C/T)	0.0080
		186	0.0080			199	0.0360
		68	0.0020			156	0.0510
9.	Bhainsa	639	0.0870			155	0.0740
		630	0.0360			154	0.0800
		616	0.0020			145(C/T)	0.0080
		611	0.2160			136(C/T)	0.0080
		610	0.0080			132	0.2880
		609	0.0080			74(C/T)	0.0090
		607	0.1660			134(C/T)	0.0080
		635(C/T)	0.0150			133(C/T)	0.0080
		636(C/T)	0.0080			75	0.2380
		634	0.0870			59	0.2240
		633(C/T)	0.0080			3(C/T)	0.0080
		629	0.1800			2(C/T)	0.0080
		623(C/T)	0.0120			105(C/T)	0.0080
		588(C/T)	0.0150			107	0.0120
		589(C/T)	0.0080			71(C/T)	0.0080
		525	0.0290			58(C/T)	0.0080
		524	0.1730			57	0.2520
		523(C/T)	0.0080			55	0.1080
		522	0.2310			41(C/T)	0.0080
		552	0.0020			33	0.0510
		551	0.0720			34	0.1160
		550	0.1080			35	0.0720
		517(C/T)	0.0220			36	0.0230
		511(C/T)	0.0220			1	0.3600
		444	0.2520	10.	Dhana Shamsabad	185	0.2400
		440(C/T)	0.0080			184	0.0200
		443	0.0510			161(Rail)	0.0440
		305	0.1730			149	0.1080
		276	0.1250			150	0.3240
		274	0.1080			171	0.0720
		272	0.0650			29	0.4680
		270	0.2450			27	0.2670
		259	0.0580			23	0.0800
		258	0.0250			22(C/T)	0.0100
		200(C/T)	0.0080			15	0.2880
		144	0.0100	11.	Ekdanta	3	0.2190
		143	0.1800			4	0.0080
		142	0.1152			8	0.0250
		73	0.1200			9	0.1160
		74(C/T)	0.0100			10	0.1230
		513	0.1520			11	0.0580
		512	0.3390			12	0.0650
		510	0.3240			14	0.0650
		439(C/T)	0.0080			18	0.2220
		875(C/T)	0.0080			17	0.0010
		277(C/T)	0.0080	12.	Barnuri Muhal Garvi	377	0.2664

1	2	3	4	1	2	3	4
12.	Bamuri Muhal Garvi (Contd.)	438	0.0320	14.	Dhana Teja (Contd.)	207	0.0500
		378	0.0216			205	0.1180
		405	0.0648			495	0.3860
		404	0.0864			497	0.0720
		403	0.1296			494	0.0220
		402	0.0980			534	0.0260
		398	0.0040			151	0.0720
		399	0.0040			496	0.0020
		445	0.0100			583	0.0360
		369	0.2520			498	0.0220
		368	0.1440			585	0.1230
		367	0.0936			536	0.0080
13.	Barari	207(C/T)	0.0120			559	0.0060
		208	0.0460			537	0.0150
		209	0.0720			450	0.1410
		210	0.0870			449	0.0880
		211	0.0700			448	0.0360
		212(C/T)	0.0080			444	0.1800
		213	0.1310			443	0.1080
		217	0.0480	15.	Muhiuddinpur	199	0.0780
		394(NH2)	0.0760			200	0.0640
		214	0.0870			203	0.0690
		215	0.0080			202	0.0790
		220	0.0800			209	0.0130
		221	0.0360			210	0.0470
		218	0.2960			212	0.0670
		675	0.0400			214	0.0650
		677	0.0782			215	0.0240
		678	0.2880			216	0.0340
		682	0.0080			222	0.4350
		683	0.0130			221	0.0710
		803	0.0350	16.	Pilua Sadikpur	22(C/T)	0.0360
		689	0.0150			29	0.2240
		688	0.0800			76	0.2380
		686	0.0360			70	0.0380
		685(C/T)	0.0080			66	0.1240
14.	Dhana Teja	165	0.0140			30	0.1440
		166	0.0100			63	0.2240
		171	0.0010			61	0.0100
		172	0.1250			64	0.0720
		173	0.0090			120	0.2020
		174	0.0070			122	0.1670
		180	0.0080			124	0.0120
		181	0.0050		200(C/T)		0.0150
		182	0.1600			203	0.1140
		184	0.0720			201	0.2370
		185	0.0150			197	0.0800
		186	0.0130			158	0.0250
		187	0.0660			156	0.0080
		484	0.0130			157	0.0720

1	2	3	4	1	2	3	4
16.	Pilua Sadikpur (Contd.)	164	0.1560	18.	Bakarpur (Contd.)	36	0.0650
		163	0.0360			27	0.0220
		356	0.0170	19.	Khedia	64	0.1230
		685	0.0120			150	0.1370
		604	0.0250			182	0.0150
		501	0.2300			8	0.2240
		502	0.2300			188	0.0360
		497	0.0120			91	0.0440
		493	0.0850			143	0.0650
		494	0.0080			33	0.0720
		482	0.0870			136(C/T)	0.0150
		508	0.0010			137	0.0940
		509	0.1160			150	0.0870
		468(C/T)	0.0150			74(C/T)	0.0290
		467	0.2170			8	0.3600
		522	0.2380			150	0.3460
		528	0.1340			100(C/T)	0.0150
		587	0.0970			101	0.2310
		529	0.2510			96	0.3240
		586	0.1310			84(C/T)	0.0290
		570(C/T)	0.0720	20.	Maholi	715(C/T)	0.0288
		571	0.0720			719	0.0960
		573	0.3380			720	0.0240
		574	0.2810			723	0.0072
		575	0.0520			725	0.1584
		582	0.0510			713	0.0090
		583	0.0580			1506(C/T)	0.0072
		586	0.0440			1484	0.0792
		682	0.0940			1483(C/T)	0.0090
		492	0.0290			1482	0.0060
		530	0.0030			1481	0.3888
		491A	0.1160			1351(SH-33)	0.0576
		491B	0.0020			1350	0.1584
17.	Aduki	175	0.2270			1349(C/T)	0.0144
		173	0.0710			1348	0.0660
		172	0.2380			1312	0.0936
		38	0.0810			1286(C/T)	0.0144
		131	0.0820			1287	0.0144
		130	0.0360			1307	0.0385
		72	0.0960			1306	0.2376
		67	0.3030			1305	0.0144
		68	0.6360			1304	0.0792
		65	0.4540			1262	0.0390
		171(C/T)	0.0290			1263(C/T)	0.0100
		71(C/T)	0.0440			1277	0.2880
		70	0.0650			1278	0.0576
18.	Bakarpur	56	0.0180			1279(C/T)	0.0100
		32	0.3240			1285	0.0360
		33(C/T)	0.0650			1284	0.2016
		34	0.3030			1283	0.0050

1	2	3	4	1	2	3	4
20.	Maholi (Contd.)	1017	0.2304	21.	Naugaon (Contd.)	13	0.0650
		1018	0.0850			12	0.0220
		1030(C/T)	0.0144			125	0.0080
		1036	0.3888	22.	Satoha Asgarpur	1043	0.0580
		1035	0.0700			1045	0.1010
		1033	0.0060			1053	0.0870
		1034	0.2448			176(Road)	0.0110
		1037(Road)	0.1000			600	0.2880
		1039(C/T)	0.0120			628	0.0510
		1044(C/T)	0.0144			655	0.0400
		1042	0.0480			656	0.0370
		1043	0.1872			657	0.0360
		1045	0.3456			658	0.0530
		1046	0.1584			660	0.2130
		1048(C/T)	0.0140			668	0.3600
		1050	0.0100			669(C/T)	0.0120
		1049	0.2304			671	0.0800
		1079(C/T)	0.0110			219	0.0420
		752	0.1800			1042	0.0720
		733(C/T)	0.0072			1050	0.1900
		728	0.1152			601	0.0220
		727	0.0648			621	0.0150
		726	0.0648			627	0.2160
		726(C/T)	0.0072			648	0.1010
		725	0.1584			649(C/T)	0.0150
		723(C/T)	0.0072			654	0.0080
		720	0.0240			672	0.1440
		719	0.0816			221(Road)	0.0220
		715(C/T)	0.0288			218	0.0440
		715	0.2740			216	0.0280
		716(C/T)	0.0140			192	0.2550
		730	0.3030			748(Road)	0.0330
		731(C/T)	0.0260			754	0.1010
		732	0.4900			758	0.0720
		668 (C/T)	0.0310			759	0.0260
		215	0.3750			760	0.0330
		206	0.0420			761	0.0380
		231	0.1290			762	0.0670
		232	0.1080			806	0.0830
		233	0.0190			808	0.0830
		203(C/T)	0.0240			799	0.0710
		184	0.4610			794	0.0110
		A(C.T.)	0.0070			217	0.0360
		82	0.0720			728	0.0360
		81	0.6120			755	0.0360
		79	0.2090			756	0.0360
		78	0.0080			757	0.0290
		65(C/T)	0.0440			807	0.0830
		207	0.0090	23.	Chhadgaon	652	0.1900
		77	0.0590			653	0.1140

1	2	3	4	1	2	3	4
23. Chhadgaon (Contd.)		654	0.1880	25. Jait (Contd.)		411	0.1260
		642	0.3950			825	0.1130
		637(C/T)	0.0170			943	0.0680
		641	0.2500			216(C/T)	0.0180
		639	0.3530			1249	0.0200
		597	0.1230			412	0.1470
		550	0.0960			1156	0.0510
		551	0.2670			221(C/T)	0.0320
		553	0.2350			354	0.2480
		558(C/T)	0.0100			202/1(C/T)	0.0100
		638	0.1080			452	0.1690
		600	0.0290			1122(C/T)	0.0230
		554(C/T)	0.0110			1189	0.0610
		555	0.2380			337	0.3060
		556	0.1370			179(C/T)	0.0040
		562	0.3100			1245	0.2580
		558(C/T)	0.0230			188(C/T)	0.0280
		557	0.0940			668	0.0380
		447	0.0220			667	0.0970
		401	0.0270			948	0.1470
		440	0.1950			189/1(C/T)	0.0330
		441(C/T)	0.0170			127	0.0510
		444	0.0440			1250	0.0100
		442	0.1590			190/1(C/T)	0.0100
		443	0.2020			1079	0.1260
		435	0.2340			1186	0.1110
		431	0.3930			162/2(C/T)	0.0180
		564	0.2810			1186	0.0710
		445(C/T)	0.0150			1294	0.1830
		434(C/T)	0.0130			904	0.0180
24. AOL		136	0.1730			727	0.2270
		137	0.1370			144/2(C/T)	0.0220
		144/2	0.0440			727	0.1190
		144/1	0.0940			147/3	0.0080
		143(C/T)	0.0100			124	0.0800
		145	0.2740			289	0.0200
		110(C/T)	0.0220			147/2(C/T)	0.0150
		109	0.2380			1177	0.3030
		146	0.0230			263	0.0050
		108(C/T)	0.0220			148(C/T)	0.0080
		107	0.1500			147(C/T)	0.0200
		102(C/T)	0.0090			117	0.0330
		149	0.1730			1164	0.2290
		150	0.0500			141(C/T)	0.0290
		152	0.5910			1175	0.0080
		189	0.0510			950	0.2190
		166	0.1800			1158	0.0030
25. Jait		233(C/T)	0.0150			1297(C/T)	0.0100
		174	0.0800			1298(C/T)	0.0030
		235(C/T)	0.0150				
		204/1	0.0210				

नई दिल्ली, 9 मार्च, 2005

1 2 3 4

का.आ. 1024.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि मध्य प्रदेश राज्य में मांगल्या (इंदौर) संस्थापन से हरयाणा राज्य में पियाला तथा दिल्ली राष्ट्रीय राजधानी क्षेत्र में विज्वासन तक पेट्रोलियम उत्पादों के परिवहन के लिए भारत पेट्रोलियम कार्पोरेशन लिमिटेड द्वारा एक विस्तार पाईपलाइन बिछाए जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाईपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जो इससे उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाईपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाईपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाईपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री लाल सिंह, सक्षम प्राधिकारी, मुम्बई—मांगल्या पाईपलाइन विस्तार परियोजना, भारत पेट्रोलियम कार्पोरेशन लिमिटेड, 179, विश्व लक्ष्मी नगर, मथुरा-281004 (यू.पी.) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : छाता जिला : मथुरा राज्य : उत्तर प्रदेश

क्र. ग्राम का नाम सर्वे नंबर क्षेत्रफल
सं. सं. हैक्टेयर में

1	2	3	4
1.	आझईकलां	2	0.0750
		3	0.0860
		4	0.0870
		7	0.0800
		59	0.2550
		60	0.3580
	93 (कच्ची सड़क)	0.0300	
		61	0.3570
		106	0.2130
		111	0.1480
		123	0.0960
		124	0.0760
		126	0.0540
		129	0.1480
		133	0.2890
		136	0.0680
		137	0.0370
		139	0.0470

2. आझईखुद	1119	0.0200
	1128	0.0810
	1129	0.2810
	1196 (कच्ची सड़क)	0.0130
	1194	0.0070
	1195	0.1060
	1197	0.0850
	1249 (कच्ची सड़क)	0.0150
	1248	0.1590
	1247	0.1540
	1240 (कच्ची सड़क)	0.0210
	1237	0.0680
	1238	0.0760
	1233	0.0340
	1232	0.0950
	1239	0.0080
	1231	0.3010
	1227	0.0160
	1226	0.0120
	1228	0.1880
	1067	0.1260
	1066	0.1520
	1065	0.0870
	1064	0.0400
	1062	0.1430
	1061	0.0720
	1377/1250	0.1850
	1121 (सड़क)	0.0300
3. अजनौठी	28	0.1800
	29	0.1160
	30	0.0290
	31	0.3320
	32	0.0300
	128	0.0300
	127	0.3880
	31	0.3600
	164	0.0150
	165	0.0070
	399	0.3240
	398	0.1600
	402	0.0150
	405	0.0250
	406	0.3750
	407	0.0150
	457	0.1520

1	2	3	4	1	2	3	4
3.	अजनौठी (जारी...)	458	0.0130	4.	अकबरपुर (जारी...)	210	0.3480
		456	0.3750		216 (कच्ची सड़क)	0.0100	
		470	0.1440		224-A	0.2410	
		472	0.0940		226 (कच्ची सड़क)	0.0150	
		467	0.0150		240 (कच्ची सड़क)	0.0070	
		468	0.0050		244	0.1000	
		465	0.0300		243	0.3030	
		466	0.3460		255 (कच्ची सड़क)	0.0120	
4.	अकबरपुर	135	0.0600		270	0.0690	
		136	0.2850		271	0.0080	
		184	0.1230		273	0.5760	
		223	0.2310		275 (कच्ची सड़क)	0.0070	
		192	0.3750		423 (कच्ची सड़क)	0.0200	
		183	0.2520		422	0.2810	
	187 (कच्ची सड़क)	0.0080			421	0.0140	
		106	0.3890		412	0.3100	
		111	0.0120		413	0.0070	
		112	0.0080		414	0.0150	
		128	0.3240		417	0.0050	
		127	0.0090		415-A	0.1230	
		131	0.0080		966	0.0300	
		177	0.0150		967	0.1110	
		90	0.0080		964	0.0190	
		96	0.1230		981	0.6020	
		97	0.2240		978	0.0150	
	48 (कच्ची सड़क)	0.0120			977	0.0290	
		40	0.0760		979	0.0800	
	41 (कच्ची सड़क)	0.0120			980	0.0080	
		47	0.0900		958	0.0680	
		44	0.1080		957	0.1370	
		46	0.0050		233	0.2980	
		43	0.0080		272	0.0720	
		42	0.0050		278	0.0080	
		35	0.1800		283 (सड़क)	0.0300	
		36	0.2380		272/1002	0.0300	
		33	0.0290		388	0.0300	
	18 (कच्ची सड़क)	0.0080			418	0.0150	
		10	0.0580		416-B	0.0510	
		12	0.0580		406 (कोसी नहर)	0.0250	
	14 (कच्ची सड़क)	0.0080			409 (कोसी नहर)	0.0250	
		13	0.0360		869 (कोसी नहर)	0.0200	
		15	0.1080		866 (कोसी नहर)	0.0360	
	6 (कच्ची सड़क)	0.0080			945	0.0080	
		1	0.1160		963	0.0080	
	201 (कच्ची सड़क)	0.0100					

1	2	3	4	1	2	3	4
4.	अकबरपुर (जारी...)	962	0.0080	7.	बरौली (जारी...)	123	0.0360
		956	0.2520			112	0.0360
	954 (कच्ची सड़क)	0.0210				121	0.0130
		949	0.0080			119	0.2160
	948-B	0.0770				194	0.0870
		947	0.3240	8.	चन्दौरी	1	0.0150
		946	0.0070			6	0.0120
5.	बहरावली	47	0.0280			7	0.1440
		57	0.1100			8	0.2520
		58	0.1290		22 (कच्ची सड़क)	0.0130	
		62	0.0350			28	0.4040
		63	0.0410			29	0.1520
		65	0.2810			108	0.3100
		48	0.0150			107	0.1230
6.	बिड़ावली	108	0.2670		109 (कच्ची सड़क)	0.0080	
		107	0.1950		116 (कच्ची सड़क)	0.0240	
	106 (कच्ची सड़क)	0.0040				115	0.0220
		105	0.0440			117	0.2020
		109	0.0050			118	0.2380
		110	0.0110			119	0.1300
		104	0.2250		143 (कच्ची सड़क)	0.0150	
7.	बरौली	59	0.2520			142	0.2310
		60	0.0940		141 (कच्ची सड़क)	0.0150	
	61 (कच्ची सड़क)	0.0190				132	0.0400
		63	0.1090			133	0.2960
		64	0.1020			140	0.1670
		67	0.1960			139	0.2160
	65 (कच्ची सड़क)	0.0060				137	0.0250
		72	0.0820			138	0.3640
		73	0.0440		187 (कच्ची सड़क)	0.0150	
		75	0.2190		186 (कच्ची सड़क)	0.0110	
		74	0.0160			185	0.0820
		103	0.3100			202	0.2190
	108 (कच्ची सड़क)	0.0150				199	0.2200
		136	0.2100			198	0.1750
		131	0.1180			197	0.0160
		126	0.0020			195	0.1820
		127	0.2230			194	0.0340
		68	0.0100			191	0.0650
		71	0.0130			193	0.0080
		76	0.2600			192	0.3790
		135	0.0360		318 (कच्ची सड़क)	0.0180	
		125	0.1800			317	0.0250
		120	0.3390			322	0.3680
	122 (कच्ची सड़क)	0.0360				211	0.0150

1	2	3	4	1	2	3	4
8.	चन्दौरी (जारी...)	321	0.1950	9.	चौमुहों (जारी...)	648	0.1230
		323	0.1880			647	0.0050
9.	चौमुहों	598	0.2090			669	0.1230
		597	0.2100			640	0.1160
		605	0.2090			639	0.0120
	707 (कच्ची सड़क)	0.0080				627	0.2360
		712	0.0150			1048	0.2810
		714	0.0080			1050	0.0080
		715	0.0370			1047	0.1310
		681	0.0150			1046	0.0090
		682	0.1660			1045	0.2600
		686	0.0150			1109	0.0110
		687	0.0290			1084	0.0940
		661	0.0940			1085	0.2880
		666	0.0230			1070	0.0440
		665	0.0080	10.	गुहेता सातबीसा	63	0.2020
		601	0.2270			64	0.0590
		602	0.0290			66	0.1790
	613 (रा. रा. 2)	0.0510				68	0.1090
		713	0.4470			70	0.2510
		709	0.0150			71	0.1020
		706	0.2600		74 (सड़क)	0.0570	
		683	0.1520			76	0.2310
		659	0.1440			60	0.0140
		660	0.0080			72	0.0150
		664	0.0080			73	0.0200
	668 (कच्ची सड़क)	0.0080				77	0.3100
		670	0.0080		225 (कच्ची सड़क)	0.0190	
		625	0.2670			224	0.3100
	626 (कच्ची सड़क)	0.0120			238 (कच्ची सड़क)	0.0360	
		628	0.1250			203	0.4990
		616	0.0940			209	0.0150
	1025 (कच्ची सड़क)	0.0110				217	0.3770
		1033/1	0.0420			214	0.0080
		1037	0.1650			211	0.5030
		1038	0.0090		213 (कच्ची सड़क)	0.0200	
		1068	0.0080			250	0.1350
		1069	0.0050			251	0.1750
		1073	0.2160	11.	खरौट	452	0.0580
		1074	0.1020			445	0.1010
		1072	0.4110			441	0.1270
	1079 (सड़क)	0.0080				508	0.3330
		1080	0.2670			688	0.1440
		663	0.1370			660	0.0230
		662	0.0720			658	0.0160

1	2	3	4	1	2	3	4
11.	खरौट (जारी...)	661	0.0120	12.	सेमरी (जारी...)	282	0.0190
		657	0.1660			283	0.1370
		650	0.2140			322	0.1150
		437	0.4610			324	0.1890
		453	0.2090			327	0.0610
		444	0.1440		329 (कच्ची सड़क)	0.0120	
		443	0.0250			330	0.1380
		439	0.3460			336	0.0370
		686	0.0650		351 (कच्ची सड़क)	0.0140	
		685	0.1080			355	0.0440
		678	0.1950			356	0.1040
		679	0.1160		362 (कच्ची सड़क)	0.0130	
		677	0.0290			365	0.1660
		675	0.0360			363	0.2020
		676	0.0360		366 (कच्ची सड़क)	0.0250	
		465	0.0290			325	0.0940
		659	0.0800			287	0.1300
		649	0.0740			302	0.0150
		648	0.0650				
	1321 (कच्ची सड़क)	0.0200		13.	हथाना	1251	0.5190
		1337	0.1200			1149	0.1010
		1359	0.1660			1151	0.0720
		1360	0.0870			1123	0.0360
		1361	0.0280			1152	0.4040
	1364 (कच्ची सड़क)	0.4320				1051	0.6270
		1366	0.2500			1032	0.1590
		1341	0.4110			782	0.1300
		1368	0.1900			783	0.1230
		643	0.2600			784	0.0510
		1335	0.3030			785	0.1230
		1334	0.0270			795	0.0150
		1336	0.0250			786	0.0440
		1369	0.0150			1074	0.2740
		1429	0.1290			1072	0.0930
		1430	0.1630			1076	0.0130
		1431	0.1590			1087	0.8570
		1432	0.1170			882	0.3760
		1433	0.1800			880	0.1990
12.	सेमरी	281 (कच्ची सड़क)	0.0290		982 (सड़क)	0.0350	
		275	0.0060			980	0.0330
		276	0.0520			974	0.090
		277	0.1380			973	0.2200
	280 (कच्ची सड़क)	0.0080				972	0.0510
		279	0.4420			804	0.0250
	278 (कच्ची सड़क)	0.0190			803 (कच्ची सड़क)	0.0250	
						802	0.4760

1	2	3	4	1	2	3	4
13.	हथाना (जारी...)	797	0.1660	14.	छाताखास (जारी...)	775	0.0580
		801	0.0190			758	0.0080
		975	0.3680			759	0.0150
	976 (कच्ची सड़क)	0.0100				757	0.2740
		883	0.0510		726 (सड़क)	0.0360	
		881	0.0110			717	0.4610
14.	छाताखास	913	0.3320			714	0.0580
		916	0.4970			715	0.0150
		911	0.0220			708	0.2380
	902 (कच्ची सड़क)	0.0240				706	0.5550
		889	0.1880			683	0.0800
		17	0.1950			690	0.5910
	696 (कच्ची सड़क)	0.0190				691	0.3240
		550	0.0720	15.	फालैन	612	0.3170
		549	0.1230			611	0.1660
		547	0.0150			559	0.0080
		546	0.1230			560	0.0360
		912	0.0150			586	0.0360
		917	0.0360		589 (कच्ची सड़क)	0.0280	
		909	0.0650			587	0.3460
		892	0.0150			593	0.1880
		890	0.0720			561	0.4400
		884	0.0430			436	0.1800
		842	0.0050			438	0.3090
	839 (कच्ची सड़क)	0.0150				465	0.3240
	840 (कच्ची सड़क)	0.0180			463 (कच्ची सड़क)	0.0190	
	814 (कच्ची सड़क)	0.0370				208/5	0.1250
		816	0.0160			208/4	0.2600
		811	0.1660			208/3	0.2010
		815	0.2450			208/2	0.3320
		790	0.0150			208/1	0.0440
		792	0.0800			211	0.1660
		791	0.2880			212	0.1080
		770	0.1160		214 (कच्ची सड़क)	0.0200	
		844	0.3530			133	0.0940
		843	0.0360			132	0.1230
		837	0.1440			136	0.0220
		822	0.6410			139	0.1000
	818 (सड़क)	0.0220				118	0.4830
		813	0.0220			119	0.1110
		784	0.0150			117	0.0650
		785	0.0220			116	0.0290
		769	0.0290			613	0.0080
		768	0.0150			592	0.3600
		774	0.4180			594	0.0080

1	2	3	4
15. फालैन (जारी...)	525 (कच्ची सड़क)	0.0150	
	524	0.0150	
	523	0.2450	
	522 (कच्ची सड़क)	0.0170	
	520	0.0870	
	521	0.2090	
	517 (कच्ची सड़क)	0.0210	
	434	0.1660	
	435	0.0360	
	437 (कच्ची सड़क)	0.0220	
	439	0.2160	
	466	0.0580	
	464	0.1730	
	458	0.0360	
	459	0.0040	
	460	0.0510	
	457 (कच्ची सड़क)	0.0290	
	207 (कच्ची सड़क)	0.0070	
	134	0.2020	
	138	0.2090	
	137 (कच्ची सड़क)	0.0170	
	120	0.1010	

[फा. सं. आर.-31015/4/2005-ओ आर-II]

हरीश कुमार, अवर सचिव

New Delhi, the 9th March, 2005

S.O. 1024 .—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Mangliya (Indore) terminal in the State of Madhya Pradesh, an extension pipeline to Piyala in the State of Haryana and Bijwasan in the NCT of Delhi should be laid by Bharat Petroleum Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying such pipeline it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the

public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri Lal Singh, Competent Authority, Mumbai-Mangliya Pipeline Extension Project, Bharat Petroleum Corporation Limited, 179, Vishwa Laxmi Nagar, Mathura-281004 (Uttar Pradesh).

SCHEDULE

Tehsil : Chhata		District : Mathura		State : Uttar Pradesh	
Sl. No.	Name of Village	Survey No.		Area in Hectare	
1	2	3	4	1	2
1.	Aajhaikalan	2		0.0750	
		3		0.0860	
		4		0.0870	
		7		0.0800	
		59		0.2550	
		60		0.3580	
		93 (C/T)		0.0300	
		61		0.3570	
		106		0.2130	
		111		0.1480	
		123		0.0960	
		124		0.0760	
		126		0.0540	
		129		0.1480	
		133		0.2890	
		136		0.0680	
		137		0.0370	
		139		0.0470	
2.	Aajhaikhurd	1119		0.0200	
		1128		0.0810	
		1129		0.2810	
		1196 (C/T)		0.0130	
		1194		0.0070	
		1195		0.1060	
		1197		0.0850	
		1249 (C/T)		0.0150	
		1248		0.1590	
		1247		0.1540	
		1240 (C/T)		0.0210	
		1237		0.0680	
		1238		0.0760	
		1233		0.0340	
		1232		0.0950	
		1239		0.0080	
		1231		0.3010	
		1227		0.0160	
		1226		0.0120	

1	2	3	4	1	2	3	4
2.	Aajhaikhurd (Contd.)	1228	0.1880	4.	Akbarpur (Contd.)	187 (C/T)	0.0080
		1067	0.1260			106	0.3890
		1066	0.1520			111	0.0120
		1065	0.0870			112	0.0080
		1064	0.0400			128	0.3240
		1062	0.1430			127	0.0090
		1061	0.0720			131	0.0080
		1377/1250	0.1850			177	0.0150
		1121 (Road)	0.0300			90	0.0080
3.	Ajanauthi	28	0.1800			96	0.1230
		29	0.1160			97	0.2240
		30	0.0290			48 (C/T)	0.0120
		31	0.3320			40	0.0760
		32	0.0300			41 (C/T)	0.0120
		128	0.0300			47	0.0900
		127	0.3880			44	0.1080
		31	0.3600			46	0.0050
		164	0.0150			43	0.0080
		165	0.0070			42	0.0050
		399	0.3240			35	0.1800
		398	0.1600			36	0.2380
		402	0.0150			33	0.0290
		405	0.0250			18 (C/T)	0.0080
		406	0.3750			10	0.0580
		407	0.0150			12	0.0580
		457	0.1520			14 (C/T)	0.0080
		458	0.0130			13	0.0360
		456	0.3750			15	0.1080
		470	0.1440			6 (C/T)	0.0080
		472	0.0940			1	0.1160
		467	0.0150			201 (C/T)	0.0100
		468	0.0050			210	0.3480
		465	0.0300			216 (C/T)	0.0100
		466	0.3460			224-A	0.2410
4.	Akbarpur	135	0.0600			226 (C/T)	0.0150
		136	0.2850			240 (C/T)	0.0070
		184	0.1230			244	0.1000
		223	0.2310			243	0.3030
		192	0.3750			255 (C/T)	0.0120
		183	0.2520			270	0.0690
						271	0.0080
						273	0.5760
						275 (C/T)	0.0070

1	2	3	4	1	2	3	4
4.	Akbarpur (<i>Contd.</i>)	423 (C/T)	0.0200	5.	Baharavali (<i>Contd.</i>)	63	0.0410
		422	0.2810			65	0.2810
		421	0.0140			48	0.0150
		412	0.3100	6.	Bidavalı	108	0.2670
		413	0.0070			107	0.1950
		414	0.0150			106 (C/T)	0.0040
		417	0.0050			105	0.0440
		415-A	0.1230			109	0.0050
		966	0.0300			110	0.0110
		967	0.1110			104	0.2250
		964	0.0190	7.	Barouli	59	0.2520
		981	0.6020			60	0.0940
		978	0.0150			61 (C/T)	0.0190
		977	0.0290			63	0.1090
		979	0.0800			64	0.1020
		980	0.0080			67	0.1960
		958	0.0680			65 (C/T)	0.0060
		957	0.1370			72	0.0820
		233	0.2980			73	0.0440
		272	0.0720			75	0.2190
		278	0.0080			74	0.0160
		283 (Road)	0.0300			103	0.3100
		272/106	0.0300			108 (C/T)	0.0150
		388	0.0300			136	0.2100
		418	0.0150			131	0.1180
		416-B	0.0510			126	0.0020
		406 (Kosi Drain)	0.0250			127	0.2230
		409 (Kosi Drain)	0.0250			68	0.0100
		869 (Kosi Drain)	0.0200			71	0.0130
		866 (Kosi Drain)	0.0360			76	0.2600
		945	0.0080			135	0.0360
		963	0.0080			125	0.1800
		962	0.0080			120	0.3390
		956	0.2520			122 (C/T)	0.0360
		954 (C/T)	0.0210			123	0.0360
		949	0.0080			112	0.0360
		948-B	0.0770			121	0.0130
		947	0.3240			119	0.2160
		946	0.0070			194	0.0870
5.	Baharavali	47	0.0280	8.	Chandauri	1	0.0150
		57	0.1100			6	0.0120
		58	0.1290			7	0.1440
		62	0.0350			8	0.2520

1	2	3	4	1	2	3	4
8. Chandauri (Contd.)		22 (C/T)	0.0130	9. Chaumuhan (Contd.)		714	0.0080
		28	0.4040			715	0.0370
		29	0.1520			681	0.0150
		108	0.3100			682	0.1660
		107	0.1230			686	0.0150
		109 (C/T)	0.0080			687	0.0290
		116 (C/T)	0.0240			661	0.0940
		115	0.0220			666	0.0230
		117	0.2020			665	0.0080
		118	0.2380			601	0.2270
		119	0.1300			602	0.0290
		143 (C/T)	0.0150			613 (NH2)	0.0510
		142	0.2310			713	0.4470
		141 (C/T)	0.0150			709	0.0150
		132	0.0400			706	0.2600
		133	0.2960			683	0.1520
		140	0.1670			659	0.1440
		139	0.2160			660	0.0080
		137	0.0250			664	0.0080
		138	0.3640			668 (C/T)	0.0080
		187 (C/T)	0.0150			670	0.0080
		186 (C/T)	0.0110			625	0.2670
		185	0.0820			626 (C/T)	0.0120
		202	0.2190			628	0.1250
		199	0.2200			616	0.0940
		198	0.1750			1025 (C/T)	0.0110
		197	0.0160			1033/1	0.0420
		195	0.1820			1037	0.1650
		194	0.0340			1038	0.0090
		191	0.0650			1068	0.0080
		193	0.0080			1069	0.0050
		192	0.3790			1073	0.2160
		318 (C/T)	0.0180			1074	0.1020
		317	0.0250			1072	0.4110
		322	0.3680			1079 (Road)	0.0080
		211	0.0150			1080	0.2670
		321	0.1950			663	0.1370
		323	0.1880			662	0.0720
9. Chaumuhan		598	0.2090			648	0.1230
		597	0.2100			647	0.0050
		605	0.2090			669	0.1230
		707 (C/T)	0.0080			640	0.1160
		712	0.0150			639	0.0120

1	2	3	4	1	2	3	4
9.	Chaumuhan (Contd.)	627	0.2360	11.	Kharot (Contd.)	437	0.4610
		1048	0.2810			453	0.2090
		1050	0.0080			444	0.1440
		1047	0.1310			443	0.0250
		1046	0.0090			439	0.3460
		1045	0.2600			686	0.0650
		1109	0.0110			685	0.1080
		1084	0.0940			678	0.1950
		1085	0.2880			679	0.1160
		1070	0.0440			677	0.0290
10.	Guheta Satbisa	63	0.2020			675	0.0360
		64	0.0590			676	0.0360
		66	0.1790			465	0.0290
		68	0.1090			659	0.0800
		70	0.2510			649	0.0740
		71	0.1020			648	0.0650
		74 (Road)	0.0570			1321 (C/T)	0.0200
		76	0.2310			1337	0.1200
		60	0.0140			1359	0.1660
		72	0.0150			1360	0.0870
		73	0.0200			1361	0.0280
		77	0.3100			1364 (C/T)	0.4320
		225 (C/T)	0.0190			1366	0.2500
		224	0.3100			1341	0.4110
		238 (C/T)	0.0360			1368	0.1900
		203	0.4990			643	0.2600
		209	0.0150			1335	0.3030
		217	0.3770			1334	0.0270
		214	0.0080			1336	0.0250
		211	0.5030			1369	0.0150
		213 (C/T)	0.0200			1429	0.1290
		250	0.1350			1430	0.1630
		251	0.1750			1431	0.1590
11.	Kharot	452	0.0580			1432	0.1170
		445	0.1010			1433	0.1800
		441	0.1270	12.	Senmari	281 (C/T)	0.0290
		508	0.3330			275	0.0060
		688	0.1440			276	0.0520
		660	0.0230			277	0.1380
		658	0.0160			280 (C/T)	0.0080
		661	0.0120			279	0.4420
		657	0.1660			278 (C/T)	0.0190
		650	0.2140			282	0.0190

1	2	3	4	1	2	3	4
12.	Senmari (Contd.)	283	0.1370	14.	Chhatakhas	913	0.3320
		322	0.1150			916	0.4970
		324	0.1890			911	0.0220
		327	0.0610			902 (C/T)	0.0240
		329 (C/T)	0.0120			889	0.1880
		330	0.1380			17	0.1950
		336	0.0370			696 (C/T)	0.0190
		351 (C/T)	0.0140			550	0.0720
		355	0.0440			549	0.1230
		356	0.1040			547	0.0150
		362 (C/T)	0.0130			546	0.1230
		365	0.1660			912	0.0150
		363	0.2020			917	0.0360
		366 (C/T)	0.0250			909	0.0650
		325	0.0940			892	0.0150
		287	0.1300			890	0.0720
		302	0.0150			884	0.0430
13.	Hathana	1251	0.5190			842	0.0050
		1149	0.1010			839 (C/T)	0.0150
		1151	0.0720			840 (C/T)	0.0180
		1123	0.0360			814 (C/T)	0.0370
		1152	0.4040			816	0.0160
		1051	0.6270			811	0.1660
		1032	0.1590			815	0.2450
		782	0.1300			790	0.0150
		783	0.1230			792	0.0800
		784	0.0510			791	0.2880
		785	0.1230			770	0.1160
		795	0.0150			844	0.3530
		786	0.0440			843	0.0360
		1074	0.2740			837	0.1440
		1072	0.0930			822	0.6410
		1076	0.0130			818 (Road)	0.0220
		1087	0.8570			813	0.0220
		882	0.3760			784	0.0150
		880	0.1990			785	0.0220
		982 (Road)	0.0350			769	0.0290
		980	0.0330			768	0.0150
		974	0.0090			774	0.4180
		973	0.2200			775	0.0580
		972	0.0510			758	0.0080
		804	0.0250			759	0.0150
		803 (C/T)	0.0250			757	0.2740
		802	0.4760			726 (Road)	0.0360
		797	0.1660			717	0.4610
		801	0.0190			714	0.0580
		975	0.3680			715	0.0150
		976 (C/T)	0.0100			708	0.2380
		883	0.0510			706	0.5550
		881	0.0110			683	0.0800

1	2	3	4
14. Chhatakhlas (Contd.)		690	0.5910
		691	0.3240
15. Phalain		612	0.3170
		611	0.1660
		559	0.0080
		560	0.0360
		586	0.0360
		589 (C/T)	0.0280
		587	0.3460
		593	0.1880
		561	0.4400
		436	0.1800
		438	0.3090
		465	0.3240
		463 (C/T)	0.0190
		208/5	0.1250
		208/4	0.2600
		208/3	0.2010
		208/2	0.3320
		208/1	0.0440
		211	0.1660
		212	0.1080
		214 (C/T)	0.0200
		133	0.0940
		132	0.1230
		136	0.0220
		139	0.1000
		118	0.4830
		119	0.1110
		117	0.0650
		116	0.0290
		613	0.0080
		592	0.3600
		594	0.0080
		525 (C/T)	0.0150
		524	0.0150
		523	0.2450
		522 (C/T)	0.0170
		520	0.0870
		521	0.2090
		517 (C/T)	0.0210
		434	0.1660
		435	0.0360
		437 (C/T)	0.0220
		439	0.2160
		466	0.0580
		464	0.1730
		458	0.0360
		459	0.0040
		460	0.0510

1	2	3	4
15. Phalain (Contd.)		457 (C/T)	0.0290
		207 (C/T)	0.0070
		134	0.2020
		138	0.2090
		137 (C/T)	0.0170
		120	0.1010

[F. No. R-31015/4/2005—OR-II]
HARISH KUMAR, Under Secy.

कोयला मंत्रालय

शुद्धि-पत्र

नई दिल्ली, 11 मार्च, 2005

का.आ. 1025.—भारत के राजपत्र, तारीख 4 दिसम्बर, 2004 के भाग II, खंड 3, उपखंड (ii) में पृष्ठ क्रमांक 9097 से 9103 पर प्रकाशित भारत सरकार, कोयला मंत्रालय की अधिसूचना का.आ. 3095 तारीख 24 नवम्बर, 2004 में :—

पृष्ठ क्रमांक 9097 पर, अधिसूचना में, पंक्ति 4, 5 “उपखंड (त्त)” के स्थान पर “उपखंड (ii)” पढ़ें।

पृष्ठ क्रमांक 9098 पर,

(1) ग्राम मलगांव (भाग) में अर्जित किए गये खसरा संख्यांक में, पंक्ति 2, “136, 137/(भाग)” के स्थान पर “136, 137/1(भाग)” पढ़ें।

पंक्ति 11, “6/1206/2,” के स्थान पर “206/1, 206/2” पढ़ें।

पंक्ति 17, “543/7, 543/7, 543/8,” के स्थान पर “543/7, 543/8” पढ़ें।

पृष्ठ क्रमांक 9099 पर,

(2) ग्राम हरदी बाजार (भाग) में अर्जित किए गये खसरा संख्यांक में, पंक्ति 17, “186/ (क), 187/6 (क),” के स्थान पर “187/6 (क), 187/6 (ख),” पढ़ें।

पंक्ति 31, “250/1 (क), 250/14 (ख),” के स्थान पर “250/14(क), 250/14(ख)” पढ़ें।

पृष्ठ क्रमांक 9100 पर,

(4) ग्राम आमगांव (भाग) में अर्जित किए गये खसरा संख्यांक में, पंक्ति 1; “1/9(ख), 1/9(ख),” के स्थान पर “1/9(क), 1/9(ख);” पढ़ें।

पंक्ति 27, “85/6क, 85ख/6, 85/7, 86/1, 86क/1,” के स्थान पर “85/6क, 85/6ख; 85/7, 86/1, 86/1क,” पढ़ें।

पृष्ठ क्रमांक 9101 पर,

पंक्ति 7, “142क/1, 142/1ख,” के स्थान पर “142/1क, 142/1ख,” पढ़ें।

पृष्ठ क्रमांक 9102 पर,

पंक्ति 39, “65654/1, 654/2, 654/3, 6544,” के स्थान पर “653, 654/1, 654/2, 654/3, 654/4,” पढ़ें।

[फा. सं. 43015/19/2000—पीआरआईडब्ल्यू]

बी. के. पण्डा, निदेशक

MINISTRY OF COAL

CORRIGENDUM

New Delhi, the 11th March, 2005

S.O. 1025.—In the notification of the Government of India in the Ministry of Coal Number S.O. 3095 dated the 24th November, 2004 Published in the Gazette of India, Part-II, Section 3, Sub-section (ii) dated the 4th December, 2004 at pages 9104 to 9110 the following correction be made :—

Page	For	Read
“9105 2nd line	136, 137/(Part)	136,137/1 (Part)
19th line	543/7,543/7, 543/8	543/7, 543/8” [No. 43015/19/2000/PRIW]

B. K. PANDA, Director

शुद्धि-पत्र

नई दिल्ली, 11 मार्च, 2005

का.आ. 1026.—भारत के राजपत्र, तारीख 20 नवम्बर, 2004 के भाग-II, खंड 3, उपखंड (ii) में पृष्ठ क्रमांक 8322 से 8333 पर प्रकाशित भारत सरकार, कोयला भंत्रालय की अधिसूचना का. आ. 2977 तारीख 16 नवम्बर, 2004 में :—

पृष्ठ क्रमांक 8323 पर

(1) ग्राम आमगांव (भाग) में अर्जित किए गये खसरा संख्यांक में, पंक्ति 3, “180/1क, 180/14 ख” के स्थान पर “180/14क, 180/14 ख” पढ़ें।

पृष्ठ क्रमांक 8324 पर,

पंक्ति 17, “277/क, 277/ख” के स्थान पर “277/1क, 277/1ख” पढ़ें।

पंक्ति 18, “277/क, 277/1ख” के स्थान पर “277/3क, 277/3ख” पढ़ें।

पंक्ति 25, “300/2छ, 300/1ज, 300/1ज” के स्थान पर “300/2घ, 300/1छ, 300/1ज” पढ़ें।

पृष्ठ क्रमांक 8327 पर

(2) ग्राम पोंडी (भाग) में अर्जित, किये गये खसरा संख्यांक में, पंक्ति 12, “260/13, 60/14” के स्थान पर “260/13, 260/14” पढ़ें।

पृष्ठ क्रमांक 8332 परसीमा वर्णन में रेखा घ-ड,

पंक्ति 3, “394,209,409” के स्थान पर “394,409” पढ़ें।

पृष्ठ क्रमांक 8333 पर रेखा द-ध-ज-क,

पंक्ति 1, “देख खसरा संख्या” के स्थान पर “रेखा ग्राम आमगांव के खसरा संख्या” पढ़ें।

[फ. सं. 43015/18/2000-पीआरआईडब्ल्यू]

बी. के. पण्डि, निदेशक

CORRIGENDUM

New Delhi, the 11th March, 2005

S.O. 1026.—In the notification of the Government of India in the Ministry of Coal Number S.O. 2977 dated the 16th November, 2004 Published in the Gazette of India, Part-II, Section 3, Sub-section (ii) dated the 20th November, 2004 at pages 8333 to 8343 the following correction be made :—

Page	For	Read
“8335 34th line	339, 340 1/2 Part 1/2,	339, 340 (Part),
8338 8th line	260/13, 60/14,	260/13, 260/14,
8342 3rd line	F	E.”

[No. 43015/18/2000/PRIW]

B. K. PANDA, Director

आदेश

नई दिल्ली, 11 मार्च, 2005

का.आ. 1027.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा (9) की उपधारा (1) के अधीन जारी की गई भारत सरकार के कोयला भंत्रालय की अधिसूचना संख्यांक का. आ. 238 तारीख, 22 जनवरी, 2004 के भारत के राजपत्र, भाग-II, खंड-3, उपखंड (ii), तारीख 31 जनवरी, 2004 में प्रकाशित होने पर उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि (जिसे इसमें इसके पश्चात् उक्त अधिकार कहा गया है) में खनिज के खनन, खदान, बोर करने, उनकी खुदाई करने, खनिजों की तलाश करने, उन्हें प्राप्त करने, उन पर कार्य करने और उन्हें ले जाने के लिए अधिकार, उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन, सभी विल्लगमों से मुक्त होकर, आत्मंतिक रूप से केन्द्रीय सरकार में निहित हो गये थे,

और केन्द्रीय सरकार का समाधान हो गया है, कि वेस्टर्न कोलफाल्ड्स लिमिटेड नामक (जिसे इसमें इसके पश्चात् सरकारी कम्पनी कहा गया है), ऐसे निबंधनों और शर्तों का जिन्हें केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए तैयार है ;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा (11) की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है, कि इस प्रकार निहित भूमि में के पूर्वोक्त अधिकार, केन्द्रीय सरकार में इस प्रकार निहित बत्रे रहने के बजाए तारीख 31 जनवरी, 2004 से, निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए सरकारी कम्पनी में निहित हो जाएंगे, अर्थात् :—

- सरकारी कम्पनी, उक्त अधिनियम के उपबंधों के अधीन अवधारित प्रतिकर, व्याज नुकसानियों और वैसी ही मदों की आवत किए गए सभी संदर्भों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी।

(2) सरकारी कम्पनी द्वारा शर्त (1) के अधीन, केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजनों के लिए एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और अधिकरण की सहायता के लिए नियुक्त किए गए व्यक्तियों के संबंध में उपगत सभी व्यय सरकारी कम्पनी वहन करेगी और वैसे ही इस प्रकार, निहित उक्त भूमि में या उस पर निहित होने वाले अधिकारों के लिए या उनके संबंध में सभी विधिक कार्यवाहियों, जैसे अपील आदि की बाबत उपगत, सभी व्यय भी सरकारी कम्पनी वहन करेगी।

(3) सरकारी कम्पनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में, जो उक्त भूमि में या उस पर इस प्रकार निहित होने वाले पूर्वोक्त अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो, क्षतिपूर्ति करेगी।

(4) सरकारी कम्पनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमि में या उस पर के अधिकारों का अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी ; और

(5) सरकारी कम्पनी, ऐसे निदेशों और शर्तों का, जो केन्द्रीय सरकार द्वारा जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित किए जाएं, पालन करेगी।

[फा. सं. 43015/4/2000-पी.आर.आई.डब्ल्यू.]

बी. के. पण्डा, निदेशक

ORDER

New Delhi, the 11th March, 2005

S.O. 1027.—Whereas on the publication of the notification of the Government of India in the Ministry of Coal Number S.O. 238 dated the 22nd January, 2004, published in the Gazette of India, Part II, Section 3, sub-section (ii), dated the 31st January, 2004, issued under sub-section (1) of Section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the rights to mine, quarry, bore, dig and search for win, work and carry away minerals in the lands described in the Schedule appended to the said notification (hereinafter referred to as the said lands) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of Section 10 of the said Act;

And whereas the Central Government is satisfied that the Western Coalfields Limited, Nagpur (hereinafter referred to as the Government Company), is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf.

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 11 of the said Act, the Central Government hereby directs that the said lands and rights in or over the said lands, so vested, shall, with effect from the 31st January, 2004 instead of continuing to so vest in the Central Government, vest in the said Government Company, subject to the following terms and conditions, namely :—

1. The Government Company shall reimburse the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act;
2. A Tribunal shall be constituted for the purpose of determining the amounts payable to the Central Government by the said Government Company under condition (1), and all expenditure incurred in connection with any such tribunal and persons appointed to assist the tribunal shall be borne by the Government Company and similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc., for or in connection with the rights in or over the said lands, so vested shall also be borne by the Government Company;
3. The Government Company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the rights in or over the said lands so vesting;
4. The Government Company shall have no power to transfer the lands rights in or over the said lands so vested to any other person without the previous approval of the Central Government; and
5. The said Government Company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said lands as and when necessary.

[F No. 43015/4/2000/PRIW]

B. K. PANDA, Director

नई दिल्ली, 11 मार्च, 2005

का.आ. 1028.—केन्द्रीय सरकार ने कोयना धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) के अधीन जारी और भारत के राजपत्र, भाग II, खंड 3, उपखंड (ii) तारीख 10 मई, 2003 में प्रकाशित भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्या का.आ. 1383 तारीख 9 मई, 2003 द्वारा उस

अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट परिक्षेप की भूमि में जिसका माप 240.50 एकड़ (लगभग) या 97.33 हेक्टेयर (लगभग) है, कोयले का पूर्वेक्षण करने के अपने आशय की सूचना दी थी,

और केन्द्रीय सरकार का यह समाधान हो गया है कि उक्त 240.50 एकड़ (लगभग) या 97.33 हेक्टेयर (लगभग) भूमि में कोयला अभिप्राय है।

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए इससे संलग्न अनुसूची में वर्णित 240.50 एकड़ (लगभग) या 97.33 हेक्टेयर (लगभग) माप की भूमि अर्जित करने के अपने आशय की सूचना देती है।

टिप्पणि 1.—इस अधिसूचना के अन्तर्गत आने वाले क्षेत्र के रेखांक संख्या : राजस्व/52/2004 तारीख 22 जून, 2004 का निरीक्षण कलेक्टर, सीधी (मध्यप्रदेश) के कार्यालय में या नार्दन कोलफील्ड्स लिमिटेड (राजस्व अनुभाग) सिंगरौली (मध्यप्रदेश) के कार्यालय में या कोयला नियंत्रक, 1, कार्डसिल हाउस स्ट्रीट, कलकत्ता के कार्यालय में किया जा सकता है,

टिप्पणि 2.—कोयला धारक क्षेत्र (अर्जन एवं विकास) अधिनियम, 1957 (1957 का 20) की धारा 8 के उपबंधों की ओर ध्यान आकृष्ट किया जाता है, जिसमें निम्नलिखित उपबंध है :—

8. अर्जन के प्रति आक्षेप (i) कोई व्यक्ति जो किसी भूमि में जिसकी बाबत धारा 7 (1) के अधीन अधिसूचना जारी की गई है, हितबद्ध है, अधिसूचना के जारी होने से तीस दिन के भीतर सम्पूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उस पर के किन्हीं अधिकारों का अर्जन किए जाने के संबंध में आपत्ति कर सकेगा।

स्पष्टीकरण :—इस धारा के अर्थ के अन्तर्गत यह आपत्ति नहीं माने जाएंगे कि कोई व्यक्ति किसी भूमि में कोयला उत्पादन के लिए स्वयं खनन संक्रियाएं करना चाहता है और यह कि ऐसी संक्रियाएं केन्द्रीय सरकार या किसी अन्य व्यक्ति को नहीं करनी चाहिए।

(2) उपधारा (1) के अधीन प्रत्येक आपत्ति सक्षम प्राधिकारी को लिखित रूप में दिया जाएगा और सक्षम प्राधिकारी अक्षेपकर्ता को स्वयं या विधि व्यवसायी द्वारा सुनवाई का अवसर देगा और ऐसी सभी आपत्तियों को सुनने के पश्चात् और ऐसी अतिरिक्त जांच, यदि कोई हो, जो वह आवश्यक समझता है करने के पश्चात् वह या तो धारा 7 की उपधारा (1) के अधीन अधिसूचित भूमि के या ऐसी भूमि में या उस पर के अधिकारों के सम्बन्ध में एक रिपोर्ट या ऐसी भूमि के विभिन्न टुकड़ों या ऐसी भूमि में या उस पर के अधिकारों के संबंध में आपत्तियों पर अपनी सिफारिशों और उसके द्वारा की गई कार्यवाही के अभिलेख सहित विभिन्न रिपोर्ट केन्द्रीय सरकार को उसके विनिश्चय के लिए देगा।

(3) इस धारा के प्रयोजनों के लिए वह व्यक्ति किसी भूमि में हितबद्ध समझा जाएगा जो यदि भूमि या किसी ऐसी भूमि में या उस पर के अधिकार इस अधिनियम के अधीन अर्जित कर लिए जाते हैं तो प्रतिकर में हित का दावा करने का हकदार होता।

टिप्पणि 3.—केन्द्रीय सरकार ने कोयला नियंत्रक, 1 कार्डसिल हाउस स्ट्रीट कोलकाता-700001 को अधिनियम के अधीन सक्षम प्राधिकारी नियुक्त किया है।

अनुसूची

गोरखी ब्लाक बी विस्तार-II
नार्दन कोलफील्ड्स लिमिटेड, सिंगरौली
जिला-सीधी (मध्यप्रदेश)

सभी अधिकार

सब ब्लाक 'अ'

रेखांक : राजस्व/52/2004 दिनांक 22-6-2004 (अर्जित की जाने वाली भूमि दर्शाते हुये)

क्रम नाम	ग्राम का नाम	तहसील	जिला	क्षेत्रफल एकड़ में	टिप्पणी
1.	नौदिया	चितरंगी	सीधी (म. प्र.)	18.00	भाग
2.	रजखड़	सिंगरौली	सीधी (म. प्र.)	69.00	भाग
3.	सोलंग	सिंगरौली	सीधी (म. प्र.)	71.00	भाग
4.	सिंगाही	सिंगरौली	सीधी (म. प्र.)	18.00	भाग

योग : 176.00 एकड़ (लगभग) या 71.23 हेक्टेयर (लगभग)

ग्राम नौदिया में अर्जित किए जाने वाले प्लाट संख्यांक

56(भाग), 57, 58, 59 (भाग), 60(भाग), 61(भाग), 62(भाग), 65(भाग), 66(भाग), 67(भाग), 68(भाग), 69(भाग), 70(भाग), 71(भाग), 72, 73(भाग), 74, 75(भाग), 76(भाग), 213(भाग), 222(भाग), 224(भाग), 225(भाग), 226, 227, 228(भाग), 229 से 233, 234(भाग), 235(भाग), 237(भाग), 13/845(भाग) और 56/853(भाग)।

ग्राम रजखड़ में अर्जित किए जाने वाले प्लाट संख्यांक

33(भाग), 34(भाग), 35, 36, 37, 38(भाग), 39 से 59, 60(भाग), 68(भाग), 69(भाग), 70(भाग), 71 से 93, 94(भाग), 112(भाग), 113(भाग), 116(भाग), 117 से 121, 122(भाग), 123, 126(भाग), 127(भाग), 128(भाग), 131(भाग), 132 से 174, 175(भाग), 177(भाग), 178(भाग), 179(भाग), 180(भाग), 188(भाग), 189(भाग), 190(भाग), 191, 192, 193, 194(भाग), 195 से 198, 199(भाग), 200(भाग), 203(भाग), 204(भाग), 205(भाग), 206(भाग), 207(भाग), 236(भाग), 354(भाग), और 355।

ग्राम सोलंग में अर्जित किए जाने वाले प्लाट संख्यांक

696(भाग), 697, 698, 699, 700(भाग), 701(भाग), 703(भाग), 706(भाग), 707(भाग), 849(भाग), 850(भाग), 851 से 857, 858(भाग), 859(भाग), 862(भाग), 863 से 889, 890(भाग), 891(भाग), 892(भाग), 893 से 905, 906(भाग), 907(भाग), 932(भाग), 944(भाग), 945(भाग), 946(भाग), 947 से 949, 950(भाग), 951 से 958, 959(भाग), 960, 961(भाग), 962 से 974, 975(भाग), 977(भाग), और 981(भाग)।

ग्राम सिंगाही में अर्जित किए जाने वाले प्लाट संख्यांक

74(भाग), 93(भाग), 94(भाग), 95, 96, 97(भाग), 98(भाग), 116(भाग), 117(भाग), 118(भाग), 119(भाग), 120, 121, 122(भाग), 123(भाग), 124(भाग), 125(भाग), 126 से 130, 131(भाग), 132 से 136, 137(भाग), 138(भाग), 139(भाग), 145(भाग), 146(भाग), 183(भाग), 184(भाग) और 196(भाग)।

सीमा वर्णन :

क-ख रेखा बिन्दु 'क' से आरम्भ होती है और ग्राम सिंगाही के प्लाट संख्या 196, 184, 183, 117, 119, 118, 131, 116, 97, 98, 74, 94 और 93 से होकर जाती है तथा ग्राम सोलंग के प्लाट संख्या 696, 700, 703, 701, 961, 959, 706, 707, 850, 849, 859, 858, और प्लाट संख्या 864 एवं 858 की उभय सीमा, प्लाट संख्या 861 एवं 863 की उभय सीमा एवं प्लाट संख्या 862 से होकर जाती है तथा ग्राम रजखड़ के प्लाट संख्या 112, 131, 128 एवं 354 से होकर जाती है और बिन्दु 'ख' पर मिलती है।

ख-ग रेखा बिन्दु 'ख' से आरम्भ होती है और ग्राम रजखड़ के प्लाट संख्या 354, 127, 126, 122, प्लाट संख्या 123 एवं 124 की उभय सीमा, प्लाट संख्या 116, 113, 94, 34, 33, एवं 38 तथा ग्राम नौदिया के प्लाट संख्या 228, 224, 222, 225, 213, 56, 56/853, 59, 60, 61, 62, 13/845, 70 69, 66 एवं 65 से होकर जाती है एवं बिन्दु 'ग' पर मिलती है।

ग-घ रेखा बिन्दु 'ग' से आरम्भ होती है और ग्राम नौदिया के प्लाट संख्या 65, 67, 68, 71, 73, 75, 76, 213, 235, 234 एवं 237 तथा ग्राम रजखड़ के प्लाट संख्या 38 पुनः ग्राम नौदिया के प्लाट संख्या 237 तथा ग्राम राजखड़ के प्लाट संख्या 38, 236, 60, 69, 68, 70, 200 24, 199, 203, 204, 205, 206, 207 एवं 194 से होकर जाती है और बिन्दु 'घ' पर मिलती है।

घ-क रेखा बिन्दु 'घ' से आरम्भ होती है और ग्राम रजखड़ के प्लाट संख्या 194, 189, 188, 190, 180, 179, 178, 177 एवं 175 तथा ग्राम सोलंग के प्लाट संख्या 907, 906, 932, 892, 891, 890, 945, 944, 946, 981, 977, 950 एवं 975 तथा ग्राम सिंगाही के प्लाट संख्या 145, 146 पुनः प्लाट संख्या 145 तथा प्लाट संख्या 138, 139, 137, 125, 124, 123, 122, 117, 183, 184 एवं 196 से होकर जाती है तथा आरम्भिक बिन्दु 'क' पर मिलती है।

सब ब्लाक 'आ'

क्रम संख्या	ग्राम का नाम	तहसील	जिला	क्षेत्रफल एकड़ में	टिप्पणी
1.	सोलंग	सिंगारौली	सीधी (म. प्र.)	2.50	भाग
2.	मुहर	सिंगारौली	सीधी (म. प्र.)	62.00	भाग
कुल क्षेत्र 64.50 एकड़ (लगभग) या 26.10 हेक्टेयर (लगभग)					

ग्राम सोलंग में अर्जित किए जाने वाले प्लाट संख्यांक

प्लाट नं. 462 (भाग)

ग्राम मुहर में अर्जित किए जाने वाले प्लाट संख्यांक

11(भाग), 12(भाग), 13(भाग), 15(भाग), 19(भाग), 20(भाग), 21(भाग), 30(भाग), 386(भाग), 973(भाग), 974(भाग), 989(भाग), 990(भाग), 991, 992(भाग), 993(भाग), 996(भाग), 1001(भाग), 1002(भाग), 1003(भाग), 1004, 1005(भाग), 1006(भाग), 1007(भाग), 1010(भाग), 1011, 1012(भाग), 1013(भाग), 1014, 1015(भाग), 1016(भाग), 1295(भाग), 1296(भाग), 1297(भाग), 1310(भाग), 1311(भाग), 1312(भाग), 1315(भाग), और 1316(भाग)।

सीमा वर्णन :

ड-च रेखा बिन्दु 'ड' से आरंभ होती है और ग्राम मुहर में प्लाट संख्या 30, 386, 13, 11, 12, 992, 993, 996, 1003, 1002, 1005, 1001 पुनः 1005 तथा 1312 एवं ग्राम सोलंग के प्लाट संख्या 462 तथा ग्राम मुहर के प्लाट संख्या 1312, 1316 एवं 1315 से होकर जाती है और बिन्दु 'च' पर मिलती है।

च-छ रेखा बिन्दु 'च' से आरम्भ होती है और ग्राम मुहर के प्लाट संख्या 1315, 1316, 1312, 1310, 1311 पुनः 1312 एवं प्लाट संख्या 1297, 1296, 1295 एवं 1015 से होकर जाती है और बिन्दु 'छ' पर मिलती है।

छ-ज रेखा बिन्दु 'छ' से आरम्भ होती है और ग्राम मुहर के प्लाट संख्या 1015, 1016, 1013, 1012 प्लाट संख्या 1011 एवं 1026 की उभय सीमा एवं प्लाट संख्या 1010, 1006, 1007, 992, 989, 990, 974, 973, 13, 15, 19, 20 एवं 21 से होकर जाती और बिन्दु 'ज' पर मिलती है।

ज-ड रेखा बिन्दु 'ज' से आरम्भ होती है और ग्राम मुहर के प्लाट संख्या 21 एवं 30 से होकर जाती है और आरम्भिक बिन्दु 'ड' पर मिलती है।

[सं. 43015/1/2003-पी.आर.आई.डब्ल्यू.]

बी. के. पण्डा, निदेशक

New Delhi, the 11th March, 2005

S.O. 1028.—Whereas by the notification of the Government of India in the Ministry of Coal, number S.O. 1383, dated the 9th May, 2003, issued under sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), and published in the Gazette of India in Part-II, Section 3, sub-section (ii) dated 10th May, 2003, the Central Government gave notice of its intention to prospect for Coal in measuring 240.50

acres (approximately) or 97.33 hectares (approximately) of the lands in the locality specified in the Schedule appended to that notification;

And, whereas, the Central Government is satisfied that coal is obtainable in the said 240.50 acres (approximately) or 97.33 hectares (approximately) of lands;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 7 of the said Act, the Central Government hereby gives notice of its intention to acquire the lands measuring 240.50 acres (approximately) or 97.33 hectares (approximately) described in the Schedule appended hereto.

Note 1.—The plan bearing No. Rev/52/2004 dated the 22nd June, 2004 of the area covered by this notification may be inspected in the office of the Collector, Sidhi (Madhya Pradesh), or at the Office of the Northern Coalfields Limited (Revenue Section), Singrauli (Madhya Pradesh), or at the Office of the Coal Controller, 1, Council House Street, Kolkata (West Bengal).

Note 2.—Attention is hereby invited to the provisions of the Section 8 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), which provides as follows :—

“8 Objection to Acquisition.

(1) Any person interested in any land in respect of which a notification under Section 7A(1) has been issued may within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or of any rights in or over such land.

Explanation :—It shall not be an objection within the meaning of this section for any person to say that he himself desires to undertake mining operation in the land for the production of coal and that such operations should not be undertaken by the Central Government or by any other person.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and shall, after hearing all such objections and after making such further enquiry, if any, as he thinks necessary, either makes a report in respect of the land which has been notified under sub-section (1) of Section 7 or of rights in or over such land, or make different reports in respect of different part of such land

or of rights in or over such land, to the Central Government containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government.

(3) For the purpose of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land or any rights in or over such land were acquired under this Act.

Note 3.—The Coal Controller, 1, Council House Street, Kolkata has been appointed by the Central Government as the competent authority under the Act.

SCHEDULE

Gorbi Block 'B' Extension II
Northern Coalfields Limited, Singrauli
District-Sidhi (Madhya Pradesh)

All Rights

Sub-Block 'A'

Drawing No. Rev/52/2004 dt. 22-6-2004

(Showing lands to be acquired)

S. No.	Name of Village	Tahsil	District	Approximate area in acres	marks
1	2	3	4	5	6
1.	Naurhiya	Chitrangi	Sidhi (MP)	18.00	Part
2.	Rajkhad	Singrauli	Sidhi (MP)	69.00	Part
3.	Solang	Singrauli	Sidhi (MP)	71.00	Part
4.	Sigahi	Singrauli	Sidhi (MP)	18.00	Part

Total area 176.00 acres (approximately) or 71.23 hectares (approximately)

Plot numbers to be acquired in village Naurhiya :

56(P), 57, 58, 59(P), 60(P), 62(P), 65(P), 66(P), 67(P), 68(P), 69(P), 70(P), 71(P), 72, 73(P), 74, 75(P), 76(P), 213(P), 222(P), 224(P), 225(P), 226, 227, 228(P), 229 to 233, 234(P), 235(P), 237(P), 13/845(P), and 56/853(P).

Plot numbers to be acquired in village Rajkhad :

33(P), 34(P), 35, 36, 37, 38(P), 39 to 59, 60(P), 68(P), 69(P), 70(P), 71 to 93, 94(P), 112(P), 113(P), 116(P), 117 to 121, 122(P), 123, 126(P), 127(P), 128(P), 131(P), 132

to 174, 175(P), 177(P), 178(P), 179(P), 180(P), 188(P), 189(P), 190(P), 191, 192, 193, 194(P), 195 to 198, 199(P), 200(P), 201(P), 203(P), 204(P), 205(P), 206(P), 207(P), 236(P), 254(P), and 255

Plot numbers to be acquired in village Solang :

696(P), 697, 698, 699, 700(P), 701(P), 703(P), 706(P), 707(P), 849(P), 850(P), 851 to 857, 858(P), 859(P), 862(P), 863 to 889, 890(P), 891(P), 892(P), 893 to 905, 906(P), 907(P), 932(P), 944(P), 945(P), 946(P), 947 to 949, 950(P), 951 to 958, 959(P), 960, 961(P), 962 to 974, 975(P), 977(P), and 981(P),

Plot numbers to be acquired in village Sigahi :

74(P), 93(P), 94(P), 95, 96, 97(P), 98(P), 116(P), 117(P), 118(P), 119(P), 120, 121, 122(P), 123(P), 124(P), 125(P), 126 to 130, 131(P), 132 to 136, 137(P), 138(P), 139(P), 145(P), 146(P), 183(P), 184(P) and 196(P).

Boundary description :

A-B Line starts from point 'A' and passes through plot number 196, 184, 183, 117, 119, 118, 131, 116, 97, 98, 74, 94 and 93 of village Sigahi and plot number 696, 700, 703, 701, 961, 959, 706, 707, 850, 849, 859, 858 common boundary of plot numbers 864 and 858, common boundary of plot numbers 861 and 863 and plot number 862 of village Solang and plot numbers 112, 131, 128 and 354 of village Rajkhad and meets at point 'B'.

B-C Line starts from point 'B' and passes through plot numbers 354, 127, 126, 122, common boundary of plot numbers 123 and 124 and plot numbers 116, 113, 94, 34, 33 and 38 of village Rajkhad and plot number 228, 224, 222, 225, 213, 56, 56/853, 59, 60, 61, 62, 13/845, 70, 69, 66 and 65 of village Naurhiya and meets at point 'C'.

C-D Line starts from point 'C' and passes through plot numbers 65, 67, 68, 71, 73, 75, 76, 213, 235, 234 and 237 of village Naurhiya and plot number 38 of village Rajkhad again plot number 237 of village Naurhiya and plot numbers 38, 236, 60, 69, 68, 70, 200, 201, 199, 203, 204, 205, 206, 207 and 194 of village Rajkhad and meets at point 'D'.

D-A Line starts from point 'D' and passes through plot numbers 194, 189, 188, 190, 180, 179, 178 and 175 of village Rajkhad and plot numbers 907, 606, 932, 892, 891, 890, 945, 944, 946, 981, 977, 950 and 975 of village Solang and plot numbers 145, 146 again plot numbers 145 and

plot numbers 138, 139, 137, 125, 124, 123, 122, 117, 183, 184 and 196 of village Sigahi and meets at the starting point 'A'.

Sub-Block 'B'

S. No.	Name of Village	Tahsil	District	Approximate area in acres					
				1	2	3	4	5	6
1.	Solang	Singrauli	Sidhi (MP)	2.50	Part				
2.	Muher	Singrauli	Sidhi (MP)	62.00	Part				
Total area 64.65 acres (approximately) or 26.10 hectares (approximately)									

Plot numbers to be acquired in village Solang :

Plot No. 462(P)

Plot numbers to be acquired in village Muher :

11(P), 12(P), 13(P), 15(P), 19(P), 20(P), 21(P), 30(P), 386(P), 973(P), 974(P), 989(P), 990(P), 991(P), 992(P), 993(P), 996(P), 1001(P), 1002(P), 1003(P), 1004, 1005(P), 1006(P), 1007(P), 1010(P), 1011, 1012(P), 1013(P), 1014, 1015(P), 1016(P), 1295(P), 1296(P), 1297(P), 1310(P), 1311(P), 1312(P), 1315(P) and 1316(P).

Boundary Description

E-F Line starts from point 'E' and passes through plot numbers 30, 386, 13, 11, 12, 992, 993, 996, 1003, 1002, 1005, 1001 again 1005 and 1312 of village Muher and plot number 462 of village Solang and plot numbers 1312, 1316 and 1315 of village Muher and meets at point 'F'.

F-G Line starts from point 'F' and passes through plot numbers 1315, 1316, 1312, 1310, 1311 again plot number 1312 and plot numbers, 1297, 1296, 1295 and 1015 of village Muher and meets at point 'G'.

G-H Line starts from point 'G' and passes through plot numbers 1015, 1016, 1013, 1012 common boundary of plot number 1011 and 1026 and plot numbers 1010, 1006, 1007, 992, 989, 990, 974, 973, 13, 15, 19, 20 and 21 of village Muher and meets at point 'H'.

H-E Line starts from point 'H' and passes through plot number 21 and 30 of village Muher and meets at starting point 'E'.

[No. 43015/1/2003-PRIW]

B. K. PANDA, Director

श्रम मंत्रालय

नई दिल्ली, 17 फरवरी, 2005

का.आ. 1029.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, सेन्ट्रल ग्राउंड वाटर बोर्ड के प्रबंधनत्र पर के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण जयपुर (संदर्भ संख्या सी.जी.आई.टी.-45/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-02-2005 को प्राप्त हुआ था।

[सं. एल-42012/15/2000-आई.आर. (सी. II)]

एन. पी. केशवन, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 17th February, 2005

S.O. 1029.—In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-45/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Ground Water Board and their workman, which was received by the Central Government on 17-02-2005.

[No. L-42012/15/2000-IR (C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

Case No. CGIT-45/2001

Reference No. L-42012/15/2000-IR(C-II)

Sh. Ramesh Chandra Saini,
S/o Sh. Kaloo Ram Saini,
R/o Shahpura, Mohalla Dabar,
Deli Road, Shahpura
Distt. Jaipur.Applicant

Versus

The Regional Director,
Central Ground Water Board,
6-A, Jalana Doongari,
Jaipur.Non-applicant

PRESENT : Presiding Officer : Sh. R. C. Sharma

For the applicant : Sh. Sitaram Gupta

For the non-applicant : Sh. B. L. Takhad

Date of Award : 27-12-2004

AWARD

1. The Central Government in exercise of the powers conferred under Clause 'D' of Sub-sections 1 and 2(A) to Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the 'Act') has referred the following industrial dispute for adjudication to this Tribunal which runs as under :—

"Whether the action of the Central Ground Water Board, Jaipur in terminating the services of Sh.

Ramesh Chandra Saini S/o Sh. Kaloo Ram Saini w.e.f. 11-3-1995 was legal and justified? If not, to what relief the workman is entitled to?"

2. The workman in his statement of claim has pleaded that he was initially appointed by the Regional Director, Central Ground Water Board, Western Region, Jhalana Dungri at Jaipur as the PBX Operator on 1-3-1993 who continuously worked there, but his service was terminated on 11-3-95 without giving him one month's notice or pay in lieu thereof and retrenchment compensation in violation of Section 25-F of the Act. He has further averred that at the time of terminating his service the junior persons to him were retained by the management in violation of Section 25-G of the Act and after his termination, the fresh hands were recruited by the management without giving him an opportunity of appointment in contravention of Section 25-H of the Act. He unsuccessfully raised an industrial dispute before the Conciliation Officer. He has urged that his termination order be declared as illegal and unjustified and he be reinstated in the service with its continuity and back-wages.

3. The non-applicant in his counter statement, resisting the claim of the workman, has stated that the Central Ground Water Board is not an industry, that the workman was employed on the basis of 'no work no wages' on daily wages, that there is no post of PBX Operator, nay he was appointed to this post. He has further averred that as a daily wager he was employed w.e.f. 1-5-93 and since no work existed in the office, his employment was disengaged w.e.f. 7-3-95. He has also disputed that no junior employee to him was retained by the management nor any fresh recruitment was made by the management.

4. In the rejoinder, the workman has stated that the non-applicant management is an industry and that still the work of PBX Operator exists in the office.

5. On the pleadings of both the parties, the following points for determination were framed :—

- I. आया प्रार्थी ने अप्रार्थी संस्थान में दिनांक 1 मार्च, 1993 से दिनांक 11-3-1995 तक पी.बी.एक्स. ऑपरेटर के पद पर निरंतर कार्य किया ?
- II. आया प्रार्थी ने संस्थान उद्योग की परिभाषा के अंतर्गत नहीं आता व प्रार्थी द्वारा उठाया गया विवाद औद्योगिक विवाद के अंतर्गत नहीं आता ?
- III. आया विषयकी विभाग में टेलीफोन पी.बी.एक्स ऑपरेटर का कोई पद नहीं है व प्रार्थी को 25/- रुपये प्रतिदिन की दिहाड़ी पर रखा गया था यदि हाँ तो इसका प्रभाव ?
- IV. आया प्रार्थी की सेवा अप्रार्थी के द्वारा औद्योगिक विवाद अधिनियम, 1947 की धारा 25-एक, लौ, एच व औद्योगिक विवाद (केन्द्रीय) नियम, 1957 के नियम-77, 78 का उल्लंघन कर पई ?
- V. प्रार्थी क्या सहायता प्राप्त करने का अधिकारी है ?

6. In the evidence, the workman has submitted his affidavit and after placing the documents by the management on summoning them, the workman has also submitted his supplementary affidavit. Similarly, on behalf of the non-applicant, the affidavit and supplementary

affidavit of Sh. M. S. Patwal, Administrative Officer have been brought on the record. Both the parties have also led the documentary evidence.

7. I have heard both the parties and have gone through the record. the point-wise discussion follows as under :—

Point No. I & III

8. Since both these points contain the identical facts, these are being discussed together as under.

9. The ld. representative for the workman contents that the workman has worked as PBX Operator in the office of the non-applicant from 1-3-93 to 10-3-95. As per his contention, the non-applicant has admitted that the workman discharged his duties from 1-3-93 to 6-3-95 but the workman has obtained the record on 10-3-95 from the non-applicant management which shows that he was in the service of the non-applicant till 10-3-95. The ld. representative further submits that the PBX in the office was situated at building No. C-13 and all the attendance registers pertain to this building which show that the workman was regularly working under the employment of the non-applicant management.

10. Countering these submissions advanced on behalf of the workman, the ld. office in-charge for the non-applicant submis that the workman was never appointed to the post of PBX Operator, that no appointment order and termination order were issued by the management, that the workman has not obtained any training as telephone operator nor he has any expertise in the job.

11. I have bestowed my thoughtful consideration to the rival contentions.

12. Admittedly, the workman has not placed any document on the record to show that he was appointed as PBX Operator by the management. He has led his oral evidence on the point and the attendance registers and payment vouchers are available on the record to show that he was working under the employment of the non-applicant management. As against it, it is the case of the management that on the principle of 'no work no wages', the workman was employed as a casual labour and when there was no need of the work, he was declined to attend the office.

13. The workman in his cross-examination on 1-10-2004 has admitted that initially he was paid Rs. 25/- per day as wages and he was performing the work of cleaning and dusting and thereafter he was assigned the job of the PBX Operator. Further he was admitted in his cross-examination that he has not acquired any training in the course of the PBX Operator. He has also admitted this fact that when he was working under the employment of the management, Smt. Sachdeva was working as telephone operator, but he has subsequently improved his statement by saying that she was working as a clerk at that time.

14. The management witness Sh. M. S. Patwal, the Administrative Officer in his supplementary affidavit has admitted that the workman was employed on daily basis w.e.f. 1-3-93 who worked up to 6-3-95, but in his cross-examination he has stated that in the month of October

1994, he had not rendered the service in the office. He has categorically pointed out that the workman was never appointed as telephone operator in the office, who had not obtained any training as a telephone operator, nor he had any experience as such. He was employed on daily wages basis for cleaning the building and filling the water in the cooler. He has also explained that Smt. Sudershan Sachdeva was working as a telephone operator but subsequently this post was redesignated as clerk and she was posted accordingly. His specific assertion is that the post of the telephone operator was abolished.

15. Both the parties have placed the documents in support of their submissions. However, there is no dispute that the workman has rendered the service w.e.f. 1-3-93 till 6-3-95, except in the full month of October 1994 and has thus completed over 240 days in the calendar year preceding to his termination. Now, the crucial question which requires determination is whether the workman was employed as the telephone operator by the management who acted as such during the period in question or he discharged his duties as a casual worker.

16. As noticed above, in support of his submission that he was employed as telephone operator, the workman has failed to place any material on the record and it is his clear admission that originally he was appointed for clearing and dusting the premises. The management has come up with a firm stand that the workman was never appointed as a telephone operator and has further clarified that he had not acquired any training in the job nor he had any experience certificate with him. The submission on behalf of the management is fortified from the materials produced on the record. The payment receipts and attendance registers available on the record indicate that the workman was engaged as a contingent labour. Therefore, on the basis of the evidence available on the record, it is obvious that the disputant was employed as a daily wager on the basis of the need of the work and was never engaged as a PBX Operator. The management witness M. S. Patwal has stood unshaken in his cross-examination on this point also that no post of PBX Operator exists with the management. As such, the workman has not succeeded in establishing that he rendered the service as a PBX Operator w.e.f. 1-3-93 to 10-3-95. On the other hand, the non-applicant management has satisfactorily shown that the workman was not employed as a PBX Operator, rather his services were taken as a casual labour on daily wages basis. Accordingly, Point No. I is decided against the workman and Point No. III is decided in favour of the non-applicant.

Point No. IV

17. The ld. representative for the workman contends that the management has also violated the previous under Section 25-G and 25-H of the Act respectively by arguing that the junior persons to the workman were retained by the management and the fresh appointments were made after his termination. This contention has been opposed on behalf of the management.

18. I have carefully gone through the record but neither in his pleadings nor in his affidavit the workman

could be able to disclose the names of any such junior persons who were retained by the management at the time of his termination, nor the names of those persons who were subsequently appointed to his termination. As such, there is no evidence on this point which is accordingly decided against the workman.

Point No. II

19. The 1d. representative for the non-applicant contends that the Central Ground Water Board is not an industry within the meaning of Section 2-J of the Act and the 1d. representative in support of his submission has placed a photostat copy of the order passed by the Hon'ble Apex Court in the Civil Appeal No. 725 of 1994, Union of India v. Jai Narayan Singh. On the other hand, the 1d. representative for the workman submits that the non-applicant management is an industry and has referred to the decision reported in 2001(7)SLR 112.

20. The Hon'ble Apex Court in the decision supra Union of India v. Jai Narayan Singh has observed as below :—

“We have not the slightest hesitation in holding that the Central Ground Water Board is not an industry. The contrary finding rendered by the Tribunal in the impugned order is incorrect. It follows Section 25(F) of the Industrial Disputes Act, 1947 will have no application. Accordingly, the appeal deserves to be allowed and is hereby allowed.”

21. Thus, the Hon'ble Supreme Court in clear terms has held that the Central Ground Water Board is not an industry. I have carefully gone through the decision referred to on behalf of the workman, but the facts thereof are dissimilar to the present controversy. In view of the observation made by the Hon'ble Apex Court in the aforesaid ruling, it is held that the non-applicant management is not an industry as defined under Section 2-J of the Act. This point, therefore, is decided in favour of the management.

22. For the foregoing reasons, the workman has failed to establish his claim, which deserves to be dismissed. Accordingly, the reference is answered in the negative in favour of the management and against the workman and it is held that the termination of the workman w.e.f. 11-3-95 is legal and justified. The claim of the workman is dismissed. An award is passed in these terms accordingly.

23. Let a copy of the award be sent to the Central Government for publication under Section 17(1) of the Act.

R. C. SHARMA, Presiding Officer

नई दिल्ली, 17 फरवरी, 2005

का.आ. 1030.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, जावाहर नवोदय विद्यालय प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर

(संदर्भ संख्या सी.जी.आई.टी.-21/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-02-2005 को प्राप्त हुआ था।

[सं. एल-42012/227/2002-आई आर (सीएम-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 17th February, 2005

S.O. 1030.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-21/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the annexure in the Industrial Dispute between the management of Jawahar Navodaya Vidyalaya, and their workman, received by the Central Government on 17-02-2005.

[No. L-42012/227/2002-IR (CM-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

Case No. CGIT-21/2004

Reference No. L-42012/227/2002 IR(CM-II)

Sh. Kamal Babu Jogi,
S/o Sh. Shravan Lal Jogi,
R/o Shyosinghpur, PO. Siras,
Teh.-Niwai, Distt.-Tonk,
Tonk (Rajasthan)Applicant

Versus

The Principal,
Jawahar Navodaya Vidyalaya,
Village & PO- Chhan,
Distt.-Tonk (Raj.)
Tonk (Rajasthan)Non-applicant

PRESENT :

Presiding Officer : Sh. R. C. Sharma

For the applicant : Sh. M. S. Kachhawa.

For the non-applicant : Sh. V. S. Gurjar.

Date of award : 20-01-2005

AWARD

1. The Central Government in exercise of the powers conferred under Clause 'D' of Sub-sections 1 & 2(A) to Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the 'Act') has referred the following industrial dispute for adjudication to this Tribunal which runs as under :—

“Whether the action of the Principal, Jawahar Navodaya Vidyalaya, Chhan, Distt. Tonk in terminating the services of the workman, Sh. Kamal Babu Jogi, w.e.f. 16-9-2000 is legal and justified ? If not, to what relief the workman is entitled ?”

2. The workman in his statement of claim has pleaded that he was employed as a Driver on 23-11-99 on daily wages basis by the non-applicant No. 1 at Tonk who continuously worked up to 15-9-2000. But his service was terminated w.e.f. 16-9-2000 in violation of Section 25-F of the Act.

3. The non-applicant, in his written counter, has stated that the workman was engaged as a Driver on daily wages basis on the need of the work for a specified period. He has also stated that the non-applicant establishment is not an industry as defined under Section 2-J of the Act. It has been further stated that the workman absented himself from his duties w.e.f. September, 2000.

4. On the pleadings of both the parties, the following points for determination were framed :—

- (i) Whether the workman was appointed as driver on 23-11-1999 by the non-applicant who continuously worked up to 15-9-2000 and his service was terminated on 16-9-2000 in violation of Section 25-F of the Industrial Disputes Act?
- (ii) Whether the Jawahar Navodaya Vidyalaya is an 'Industry' within the meaning of Section 2-J of the Industrial Disputes Act?
- (iii) Relief, if any?

5. In the evidence, the workman has submitted his affidavit. But despite ample opportunities afforded to him he did not offer himself for the cross-examination. Therefore, on 3-1-2005, his evidence was closed.

6. I have heard both the parties and have scanned the record. The point-wise discussion follows as under :—

Point No. I

7. It is the case of the workman that he was employed as a Driver on 23-11-99 who had continuously worked till 15-9-2000 and that he has completed 240 days of actual service with the non-applicant establishment.

8. During the course of the arguments, the 1d. representative for the non-applicant has fairly and gracefully stated that although the workman had himself left the job, the non-applicant management is still agreeable to take him back in the service as a Driver on daily wages basis. To this proposal, the 1d. representative for the workman agrees and he has stated that in the event the continuity of the service rendered by the workman as a daily wager is maintained by the management, then the workman consents to forego the back-wages. This proposal is acceptable to the 1d. representative for the management and on account of this settlement made before the Court, the claim of the workman deserves to be allowed. Accordingly, this point is decided in favour of the workman in this manner.

Point No. II

9. In view of the aforesaid amicable settlement arrived at between the parties, the 1d. representative for the non-applicant does not press this point.

10. Consequently, on the basis of the settlement arrived at between the parties before the court, the termination order dated 16-9-2000 is set aside and the claim of the workman is allowed to this effect that he is entitled to be reinstated in the service as a Driver on daily wages with continuity of his service but no back-wages would be admissible to him. An award is passed in these terms accordingly.

11. Let a copy of the award be sent to the Central Government for publication under Section 17(1) of the Act.

— R. C. SHARMA, Presiding Officer

नई दिल्ली, 17 फरवरी, 2005

का.आ. 1031.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, जवाहर नवोदय विद्यालय प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर (संदर्भ संख्या सी.जी.आई.टी.-46/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-02-2005 को प्राप्त हुआ था।

[सं. एल-42012/282/2003-आई आर (सीएम.-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 17th February, 2005

S.O. 1031.— In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-46/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the annexure in the Industrial Dispute between the management of Jawahar Navodaya Vidyalaya, and their workman, received by the Central Government on 17-02-2005.

[No. L-42012/282/2003-IR (CM-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

Case No. CGIT-46/2004

Reference No. L-42012/282/2003 IR(CM-II)

Sh. Pratap Singh,
S/o Sh. Jaswant Singh Jat,
Vill. Sunari, PO. Aavaar Via Paigore,
Teh.-Kurnher,
Bharatpur (Rajasthan)Applicant

Versus

1. The Principal,
Jawahar Navodaya Vidyalaya,
Jat Baroda, Gangapur City,
Sawai Madhopur (Rajasthan)
2. The Deputy Director,
Jawahar Navodaya Vidyalaya Samiti,
Regional Office A-12, Shastri Nagar,
Near Pital Factory,
Jaipur-302016.Non-applicant

PRESENT:

SH. R. C. SHARMA, Presiding Officer

For the applicant : Sh. B. M. Bagda.

For the non-applicant : Sh V. S. Gurjar.

Date of award : 20-01-2005

AWARD

1. The Central Government in exercise of the powers conferred under Clause 'D' of sub-sections 1 & 2(A) to Section 10 of the Industrial Disputes Act, 1947 (hereinafter

referred to as the 'Act') has referred the following industrial dispute for adjudication to this Tribunal which runs as under :—

"Whether the action of the Principal, Jawahar Navodaya Vidyalaya, Jat Baroda, Gangapur City, Sawaimadhopur in terminating the services of Sh. Pratap Singh w.e.f. 14-12-2002 is legal and justified? If not, to what relief he is entitled?"

2. The workman in his statement of claim has pleaded that he was employed as a Driver on 9-10-1991 by the non-applicant No. 1 who continuously worked up to 13-12-2002. But his service was terminated w.e.f. 14-12-2002 without assigning any reason. He has completed over 240 days of work with the non-applicant Navodaya Vidyalaya, whose service was terminated in contravention of Section 25-F of the Act. He has also stated that after his termination new recruitments have been made by the establishment in violation of section 25-H of the Act. He has urged that his termination order be declared illegal and he reinstated into service with its continuity and back wages.

3. The non-applicants, in their written counter, have averred that the non-applicant school is not an industry as defined under the Act and that on the basis of the need of work the workman was engaged on daily wages whose termination does not amount to retrenchment. It has been further added that the workman himself left the job w.e.f. 14-12-2002 without prior intimation to the establishment.

4. In the rejoinder, the workman has reiterated the facts as stated in the claim statement.

5. On the pleadings of both the parties, the following points for determination were framed :—

- I. Whether the workman was appointed as a motor vehicle driver on 9-10-1991 by the non-applicant establishment who continuously worked up to 13-12-2002 and has completed more than 240 days of actual work with the non applicant? BOA
- II. Whether the service of the workman was terminated in violation of the provisions under Section 25-F of the Act, 1947? BOA
- III. Whether the non-applicant establishment is not an industry as defined under Section 2(j) of the ID Act? BONA
- III. Relief, if any?

6. In the evidence, the workman has submitted his affidavit, who was cross-examined on behalf of the non-applicants. The non-applicants have chosen not to adduce any evidence.

7. I have heard both the parties and have scanned the record. The point-wise discussion follows as under :—

Point No. I and II

8. Both these points relate to the provision under Section 25-F of the Act, which are being discussed together as hereunder.

9. The workman in his affidavit has deposed that he was employed as a bus driver on 9-10-2001 in the Navodaya Vidyalaya, Jat Baroda, Thesil Gangapur City since he had obtained a licence for driving the heavy vehicles on 21-1-1997. It is also stated that he had continuously worked from 9-10-2001 up to 13-12-2004. In his cross-examination, he has clearly admitted that he neither appeared in any test for the appointment to this post, nor any test was held for the selection to this post and has also admitted that he was employed on daily wages basis as a Driver. In an answer to the question put to him in the cross-examination, he has admitted that if the non-applicant establishment takes him back in the service as a Driver on daily wages, he agrees to join the duties.

10. The workman has also produced the documentary evidence in support of his submission. The photostate copies of the logbook indicate that the workman had performed his duties as a Driver from 11-10-2001 to 13-12-2002. Thus, it has been established that the workman has completed over 240 days of continuous service with the non-applicant school preceding to the date of his termination and the non-applicant establishment has not complied with the requirements under Section 25-F of the Act while terminating his service. Thus, the workman succeeds in establishing his claim. Moreover, during the course of the arguments the ld. representative for the non-applicants has fairly and gracefully stated that the non-applicant establishment is agreeable to take the workman back in the service as a Driver on daily wages basis. The ld. representative for the workman also agrees to this proposition with an urge that in the event the establishment agrees to maintain the continuity of the service of the workman, then the workman consents to forego his back-wages. This proposal is acceptable to the ld. representative for the non-applicants. Thus, both the parties have also arrived at an amicable settlement before the Court and in these terms, the claim of the workman deserves to be allowed. Accordingly, both these points are decided in favour of the workman in his manner.

Point No. III

11. In view of the aforesaid amicable settlement arrived at between the parties before the Court, the ld. representative for the non-applicants does not press his point.

12. Consequently, the order of terminating the service of the workman w.e.f. 14-12-2002 is set aside and the claim of the workman is allowed. It is held that the workman is entitled to be reinstated in the service as a Bus Driver on daily wages basis with continuity of his service but no back-wages would be admissible to him. An award is passed in these terms accordingly.

13. Let a copy of the award be sent to the Central Government for publication under Section 17(1) of the Act.

R.C. SHARMA, Presiding Officer

नई दिल्ली, 17 फरवरी, 2005

का.आ. 1032.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, सेन्ट्रल नर्कोटिस ब्यूरो प्रबंधतान्त्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर

(संदर्भ संख्या सी.जी.आई.टी.-43/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-02-2005 को प्राप्त हुआ था।

[सं. एल-42012/233/2002-आई. आर (सीएम. II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 17th February, 2005

S.O. 1032.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-43/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the annexure in the Industrial Dispute between the management of Central Narcotics Bureau, and their workmen, which was received by the Central Government on 17-02-2005.

[No. L-42012/233/2002-IR (CM-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

Case No. CGIT-43/2003

Reference No. L-42012/233/2002 IR(CM-II)

PRESENT:

Presiding Officer : SH. R. C. SHARMA

Sh. Rameshwar Lal Jat,
Through,
Bhartiya Mazdoor Seva Sangh,
Chittorgarh Applicant-
Union

Versus

Distt. Opium Officer,
Central Narcotics Bureau,
Chittorgarh, Non-Applicant

For the applicant : Sh. Baldev Mod.

For the non-applicant : Sh Satyabir Singh.

Date of award : 27-01-2005

AWARD

1. The Central Government in exercise of the powers conferred under Clause 'D' of Sub-sections (1) and (2A) to Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the 'Act') has referred the following industrial dispute for adjudication to this Tribunal which runs as under :—

"Whether the action of the management of Central Narcotics Bureau, Kota (Distt. Opium Officer, Chittorgarh) in terminating the services of Sh. Rameshwar Lal Jat w.e.f. 21-5-2002 is legal and justified? If not, to what relief he is entitled to?"

2. The applicant-union in its statement of claim has pleaded that the workman Sh. Rameshwar Lal Jat was employed as a Waterman (Assistant employee) on 6-5-1999 by the non-applicant, who continuously worked up to 20-5-2002 and has completed 240 days in each calendar year. But on 21-5-2002, his service was terminated in

violation of Section 25-F of the Act. It has also been stated that after his termination new recruitments have been made without affording him an opportunity of employment. The applicant-union has urged that its claim be accepted and the workman be reinstated in the service.

3. The non-applicant, in his written counter, has averred that the non-applicant establishment is not an industry as defined under the Act and that on contingency basis the workman was employed on daily wages for a fixed period and on the payment of fixed wages. He has denied that the workman has completed 240 days in each calendar year.

4. In the evidence, on behalf of the applicant-union, the affidavits of the workman Sh. Rameshwar Lal Jat, WW-1 and Sh. Deepak Mishra, WW-2 have been submitted, who were cross-examined by the officer in-charge on behalf of the non-applicant. On behalf of the non-applicant, the counter affidavit of Sh. Satyabir Singh, the District Opium Officer has been placed on the record, who was cross-examined on behalf of the applicant-union.

5. I have heard both the parties and have scanned the record.

6. The Id. representative for the applicant-union contends that the workman Sh. Rameshwar Lal Jat was engaged as a Waterman in the cadre of 4th Class on 6-3-1999 by the non-applicant establishment, who continuously worked up to 20-5-2002 and has completed 240 days in each calendar year. The Id. representative has placed his reliance upon the documents Ex. W-1, W-2 and W-3. His further contention is that after the termination of the workman, a new employee Sh. Madhav Lal has been appointed in his place and thus the non-applicant has not complied with the requirements laid down under Sections 25-F and 25-H of the Act.

7. In response, the Id. officer in-charge has contended that the non-applicant is not the employer of the workman, that the workman was a daily wager who cannot be appointed on regular basis and that no appointment letter was issued in his favour. His further submission is that on accrual of the contingencies, he was called upon to discharge the duties and after the completion of the work he was paid the wages. The Id. officer in-charge has also assailed the testimony of Sh. Deepak Mishra that he is an interested witness whose dispute is pending with the Industrial Tribunal at Kota against the Department. He has relied upon 2003 Lab IC 3320 & Jt 1997 (4) SC 560 in support of his submission that the claimant is not an employee of the non-applicant Bureau.

8. I have given my thoughtful consideration to the rival contentions and have scanned the record..

9. Now, the questions which fall for consideration are as to :—

(i) Whether the workman has completed 240 days of actual service in each calendar year during the period 6-5-99 to 20-5-2002, whose service was terminated in contravention of the provision under Section 25-F of the Act;

(ii) Whether the non-applicant establishment has employed the fresh hand, *viz.*, Sh. Madhav Lal in place of the workman after his termination without affording him an opportunity of employment to the workman in violation of Section 25-H of Act?

Point No. I

10. The workman in his affidavit has deposed that he was employed in 6-3-99 as a Water boy who continuously worked upto 20-5-2002, but he was declined to join the duty on 21-5-2002 and he has completed 240 days of service in each calendar year. In his cross-examination, he has emphatically stated that he was engaged on 6-3-99 by the non-applicant who used to work from 9 a.m. to 6 p.m. in the office and he has also pointed out that he was performing the work of a 4th Class employee.

11. In support of the testimony of the workman, Sh. Deepak Mishra, WW-2 has stated in his affidavit that he was working as Data Entry Operator in the District Opium Office since January, 1999, where Sh. Rameshwar Lal Jat was working as an assistant employee in the 4th Class cadre from 6-3-99. Although he has admitted in his cross-examination that he had filed a case against the department in the Labour Court at Kota, yet the factum of his serving as a Data Entry Operator in the District Opium Office is proved from the documentary evidence available on the record and his testimony has corroborated the statement of the workman deposed before the Court.

12. The applicant-union has also led the documentary evidence on the record. The testimony of the workman is further fortified by the documentary evidence and nothing has surfaced on record to discard his deposition. Ex. W-2 is a letter dated 14-1-2000 addressed by the District Opium Officer to the Deputy Narcotics Commissioner, whereby the information with regard to the daily wages employees was sent to the aforesated officer. The chart annexed with the letter indicates that at serial No. 3 figures the name of the workman Sh. Rameshwar Lal Jat, who has been shown to be appointed on 6-3-99 as temporary employee. The another letter Ex. W-1 dated 12-7-2001 written by the District Opium Officer to the Deputy Narcotics Commissioner indicates the workman working with the non-applicant establishment as a daily wager till the date of issuance of this letter which is 12-7-2001. Another material document is Ex.-3, which is a letter addressed by the District Opium Officer to the Deputy Narcotics Commissioner containing the list of the daily wages employees, which also includes the name of the workman Sh. Rameshwar Lal Jat at serial No. 5 exhibiting him to be working w.e.f. 6-1-99 till the date of writing the letter i.e. 30-8-2000. Thus, on the strength of Ex. W-3, it is established that in the calendar year 1999, the workman has completed 240 days of continuous service.

13. Section 25-B(2)(1) lays down that a workman shall be deemed to be in continuous service under an employer for a period of one year if the workman during a period of 12 calendar months preceding the date with reference to which calculation is to be made has

actually worked under the employer for not less than 240 days. In view of this provision, the workman during the period of his employment from 6-3-1999 to 20-5-2002 has completed 240 days of actual service with the non-applicant establishment in the calendar year of 1999. It is undisputed that one month's notice or pay in lieu thereof and the retrenchment compensation were not paid to the workman prior to his termination. Thus, his termination tantamounts to the retrenchment and he is entitled to get the protection under Section 25-F of the Act. the facts of the decisions relied upon by the non-applicant are dissimilar to the present controversy and they are not applicable to it in the light of the aforesaid legal position and on facts of this case. Accordingly, this point, therefore, is decided in favour of the workman and against the non-applicant.

Point No. II

14. The workman in his affidavit has deposed that after his termination, one Shri Madhav Lal was appointed without giving him an opportunity of employment. In support of his plea, he has referred to a fax message dated 21-5-2002 sent by the District Opium Officer to the Deputy Narcotics Commissioner which contains the list of the daily wages employees and at serial number 4 ranks the name of "Madhav Lal, Waterman". But this letter nowhere mentions his date of employment, which can be linked with the termination of the workman. Apart it, the workman has not disclosed the name of Shri Madhav Lal as new appointee in the statement of claim and it is only for the time on 24-8-2004 when he disclosed his name in his affidavit, which is an after thought statement and cannot be relied upon. thus, on this point the workman has failed to produce any reliable evidence in support of his plea and his testimony on this point is feeble. Accordingly, this point is decided against the workman.

15. The non-applicant has also adopted a stand that the establishment is not an industry as defined under Section 2-J of the Act. The workman in his affidavit at para 9 has specifically pointed out that the Narcotic Bureau purchases the opium and sends it to the factories situated at Neemach and Gazipur for manufacturing the medicines. This fact could not be rebutted on behalf of the non-applicant in his evidence. On these facts, it is also established that the non-applicant establishment is also carrying on the business with the profit motive and the plea set forth on behalf of the non-applicant cannot be maintained.

16. The workman at para 7 of his affidavit has stated that he is out of employment since the date of his termination. No evidence could be produced on behalf of the non-applicant to rebut this statement which stands proved.

17. On account of the decision of point No. 1 in favour of the applicant-union, it has succeeded in establishing that the workman has completed over 240 days of actual service in a calendar year during his employment and the non-applicant establishment in

contravention of the provision under Section 25-F of the Act has terminated the service of the workman which amounts to the retrenchment. The workman, therefore, is entitled to be reinstated in the service.

18. Consequently, the reference is answered in the affirmative in favour of the applicant-union and against the non-applicant bureau and it is held that the action of terminating the service of the workman Shri Rameshwar Lal Jat w.e.f. 21-5-2002 is illegal and unjustified. His termination order is hereby set aside and it is held that he is entitled for his reinstatement in the service with its continuity and 50 per cent back-wages. An award is passed in these terms accordingly.

19. Let a copy of the award be sent to the Central Government for publication under Section 17(1) of the Act.

R. C. SHARMA, Presiding Officer

नई दिल्ली, 21 फरवरी, 2005

का.आ. 1033.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत सरकार मुद्रणालय के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. II नई दिल्ली के पंचाट (संदर्भ संख्या 201/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-02-2005 को प्राप्त हुआ था।

[सं. एल-16011/4/99-आई आर (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 21st February, 2005

S.O. 1033.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 201/99) of the Central Government Industrial Tribunal/Labour Court, No. II, New Delhi now as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Government of India Press and their workman, which was received by the Central Government on 21-02-2005.

[No. L-16011/4/99-JR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II RAJENDRA BHAWAN, GROUND FLOOR, RAJENDRA PLACE, NEW DELHI

R. N. RAI., Presiding Officer

I. D. No. 201/99

IN THE MATTER OF:

The General Secretary,
Government of India Press
Workers Union,
130-Type-II, Minto Road,
New Delhi-110002.

Versus

The Manager,
Government of India Press,
Minto Road, New Delhi-10002.

AWARD

The Ministry of Labour by its Letter No. L-16011/4/99-JR (DU) CENTRAL GOVERNMENT Dt. 13-10-1999 has referred the following point for adjudication.

The point runs as hereunder :—

“Whether the action of the management in not granting promotional avenues to its workmen and reverting the workman who has completed and worked for more than 6 months on adhoc basis in respective post is legal and justified? If not, what relief the workmen are entitled to ?”

The Union has filed statement of claim on behalf of the workmen. In the statement of claim, it has been stated that the Letter Press Staff-Strength position is as follows :

Year	Sanc- tioned	On Roll	Transfers	Vacan- cies
1 March, 1986	2603	2348	255
1 March, 1987	2438	2108	330
1 March, 1991	1941	1587	105	279
1 March, 1995	1902	1154	113	635
1 March, 1998	1899	811	203	885
1 March, 1999	1900	722	245	1178

The local management promoted about 50-60 workers albeit on an ad-hoc basis from 1991 onwards to meet functional and operational need. The Ad-hoc promotions were made after due and appropriate considerations and after observing all procedural requirements. The list of Ad-hoc promotees included eligible and Trade-Test qualified candidates also from RESERVE CATEGORIES. The Ad-hoc Promotees continued to function in their respective higher posts for years together. Some of them had even earned 3/4 annual increments. At the initial stage the 'Ad-hoc Promotees' continued to serve from 2 to 3 years without any breaks. The 'breaks' were applied later on.

The 'Ad-hoc promotees' were unfortunately reverted to their substantive posts in May, 1995 and thereafter. Not a single functional promotion have taken place in Letterpress unit since May, 1995 despite having regular and live vacancies arising on account of sudden reversion, deaths and retirements on superannuation. Paripassu, the Local Management at the instructions of HQRS; deprived the eligible workers from getting the rare chance of functional promotion. An executive fiat was issued in the name of so-called E.F.C. Memo

to deny the L.P.U. employees the rightful claim to Career progression. To cite;

The sanctioned staff strength for the posts of Compositor Grade-I in the Scale of Rs. 1200—1800/ Rs. 4000—6000 is 80 (Eighty) only. Despite regular retirements not a single promotion was effected during these years. the lone in combent is going to retire on superannuation w.e.f; 30-11-1999 (AN). several senior Galley Proof Press Men' were posted in the Machine branch for On the Job Training for 6 (Six) months vide Office Order No. 79/EI dt. 14th August 1997. The 'Trainees' are still working there, without any monetary or promotional benefit. a few of them even holds NCTVT Certificate of 3 years duration in the Trade of 'Letter Press Machine Minder' but unfortunately, not considered for vacant posts. Banning of internal promotion especially that of Mechanical & Operative Staff coupled with non-filling up of vacant in a regular manner led to an industrial dispute and 'Conciliation' stepped in. Inspite of best efforts and joint discussion, the press Management being adamant to review and reconsider, the conciliation efforts ended in failure. the Govt. of India Press Worker' Union, Minto Road, New Delhi-110002 representing the affected workmen agreed for any form of ARBITRATION. The Press Management express their unwillingness and declined to agree for the same,

The ban on internal promotion which is being enforced in the name of E.F.C. Memo, have no statutory-backing. Because inspite of requests and formal prayer this union failed to obtain a certified copy of the above said Memo. The same was also not produced during the conciliaton stage, before the competent authorities even on demand. Because this questionable E.F.C. Memo abolishes all permanent sanctioned posts in the Letter press. Thus, denying and depriving the eligible workers from a possible but limited chance for functional promotion, as per rectt. rules. Because any project—whether Modernization or of expansion —Crossing the limit of 5 Crores, at the relevant period,-entails E.F.C. Memo. The Letter Press Unit is not under 'modernization' as at present. Our authority is Hon. Minister's reply to the Rajya Sabha Starred Question No. 125 dt. 31-07-1997. Banning internal promotion and keeping the vacant posts inabeyance on this pretext is questionable, of doubtful interpretation and also subject to jurisdictional challenge.

Because the E.F.C. Memo in it's wisdom declared over 1800 permanent sanctioned posts of Letter Press Unit as redundant and to be abolished. Because the E. F. C. Memo wipes out the Letter press Staff from the very map of the Project. No-where in the industry, any Project so unmindfully ignores the existing staff. Because the E.F.C. Memo fails to consider the fate of the Letter Press permanent employees and future life of their dependants. Because no training proposal, no method of future absorption is proposed, suggested or recommended in the E.F.C. Memo for the Letter Press

employees. Because if the Indian Constitution 'a sacrosanct document' can be amended about 80 times for general welfare in public interest, why the E.F.C. Memo cannot likewise be amended/modified/revised or reviewed in the light of submissions made, representation received or defects observed in it's working and implementation.

Because in a published booklet titled. 'A Brief profile of the Govt. of India presses and its establishment.....' the Mudran Nideshalaya confirms that a sizable portion of Letter Press unit is required to be retained and no Fund for modernization exists as on date therefore, keeping the vacant operative posts inabeyance is unwarranted and discriminatory in action.

It has not been denied that the 'Ad-hoc promotes' even after their version on their respective lower posts were asked to perform duties of higher posts without any monetary benefit. Even the 'Trainees' are sometimes ordered to perform as —full fledged employees— independently and put in shift duties. It has not been denied that in almost all the cases, the 'Ad-hoc promotes' had a qualifying service of inore than 20 years and it was their first functional promotion albeit in an Ad-hoc capacity.

The management has filed reply. In the reply, it has been stated that as per Govt. of India. Ministry of Urban Development letter No. 1/52/86-Plt. Cell/PSP dt. 12-1-1988 the proposal for modernization of Govt. of India Press, Minto Road was approved a the cost of Rs. 11.12 Crores by the Expenditure Finance Committee. According to this plan, the original sanctioned strength of 2585 officers and staff was to be reduced to 1072. On completion of this modernization programme the letter press wings will cease to exist.

The Letter Press strength is as follows :—

Year	Sanc- tioned	On Roll	Trans- fers	Vacan- cies
1 March, 1986	2603	2348	255
1 March, 1987	2438	2108	330
1 March, 1991	1941	1587	105	279
1 March, 1995	1902	1154	113	635
1 March, 1998	1899	811	203	885
1 March, 1999	1900	722	245	933

As per Govt. instructions adhoc promotion can be resorted to only ion very exceptional cases. Consequent on modernization a number of posts have become surplus. Taking humanitarian point of view at the time of modernization it was decided that the existing staff be given training in the modern technology and absorbed against future vacancies as and when arise. The remainings surplus staff will be allowed to continue till they cease to be in service by way of retirement, resignation etc. Hence, no promotion can be made against the post meant for wasting out.

This is not because of banning internal promotion but non-availability of promotion due to reduction of staff as a result of modernization. The existing staff has not been terminated but they are allowed to continue till they are trained and redeployed wherever possible or they retire from service. The workers are covered by the service rules applicable to other Central Govt. servants and are paid all the benefits of revision of pay and allowances from time to time. The scheme of declaring staff surplus on modernization etc. and their redeployment in other cadres/deptt. etc. is fully covered under Govt. of India instructions. 'No arbitrary action has been taken to deprive the workers rights'.

The appointment made without approved strength is irregular. As per F.R. 31(a) any irregular appointment has to be challenged. Hence the reversion of promotions made on adhoc basis is as per rules. The surplus staff are allowed to continue till their redeployment or retirement. They are given full pay and allowance and other benefits. Hence, utilizing their services in the best interest of the Press is not irregular. As already mentioned above promotion can be made only against available vacancy. In cases where a person has not got any promotion they are covered under the scheme of in situ promotion or assured career progression as per Govt. of India orders.

Promotion is not a statutory right and fundamental right. The only provision is the senior eligible persons should not be ignore by promoting junior or ineligible persons. There are many cadres where there are no promotional avenues or lack of promotion avenues and it is for safeguarding their interests that the scheme of in situ promotion/assured career progression has been evolved by the Govt.

The General Secretary on behalf of the workman has filed rejoinder. In his rejoinder the averments of the claim statement have been reitiated and it has been asserted that despite death, retirement no promotion has been given. There is stagnation. The management is not granting promotional avenues to its workmen and reverting the workmen who have completed for more than six months on adhoc basis in respective posts. The management has denied most of the paras of the claim statement. Evidence from the side of the workman has been concluded. The management has filed its affidavit but none is appearing from the side of the workmen since 30-12-2002. Notice has been sent two times still none turned up from the side of the workmen. The witness of the inmanagement was not cross-examined due to non-appearance of the General Secretary on behalf of the workmen applicants. The cross of the managemenit was closed on 7th January 2004 and argument of the management was heard.

It was submitted from the side of the management that so far as the adhoc promotees are concerned they have no right for promotion. It is the right of the

government to create promotional posts. When the promotional posts were not created the adhoc promotes were reverted to their original respective posts. The Union cannot compel the management to create promotional avenues. It is a prerogative of the management to create posts. The adhoc promotees cannot be regularised on promotional posts.

The management drew my attention to AIR 1995 SC 974. 'The Hon'ble Supreme Court has held that prolonged adhoc service does not ripen into regular services. It has been further held in AIR 1992 SC Pg. 2130 that creation of posts is the prerogative of the Government. In view of the law laid down by the Hon'ble Supreme Court in the cases referred to above the respondent cannot be compelled to create promotion avenues. It is a matter of Government policy. There may be retirement and deaths but the promotional posts may be abolished by the Government. As far as the adhoc promotees are concerned they have no right to regularisation on promoted posts as they are adhoc promotees. Adhoc promotees cannot claim any right to the post they have been promoted to.

It was further submitted from the side of the management that internal promotion was banned due to reduction of staff as a result of modernization. The existing staff has not been terminated but they are allowed to continue till they are trained and re-deployed wherever possible or they retire from service. The workers are covered by the Service Rules applicable to the other Central Government services and they are being paid as per the recommendations of the Pay Commission. The scheime declaring staff surplus on modernization etc. and their deployment in other cadre/retirement etc. is fully covered under Government of India instructions. No arbitrary action has been taken to deprive the workers of their rights. The reversion of adhoc promotees was made as regular appointments had to be cancelled in view of modernization. It is up to the government to make promotion against the available vacancies. The workmen have got no right to promotion when there are no vacancies. It is not a fundamental right. Seniority should not be undermined. It is not the case of the workmen applicants.

In view of the decisions of the Hon'ble Supreme Court and the Government's Policy the case of the workman applicant is not made out.

The reference is replied thus :—

The action of the management in not granting promotional avenues to its workmen and reverting the workmen who have completed and worked for more than six months on adhoc basis in respective posts is legal and just. The workmen applicants are not entitled to get any relief as prayed for.

The Award is given accordingly.

Date : 17-02-2005 R. N. RAI, Presiding Office

नई दिल्ली, 21 फरवरी, 2005

का.आ. 1034.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनाइटेड इंडिया इंश्यूरेन्स कं. लि. के प्रबंधितंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार-औद्योगिक अधिकार/प्रम न्यायालय, लखनऊ के पंचायत (संदर्भ संख्या 52/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-02-2005 को प्राप्त हुआ था।

[सं. एल-17012/29/2000-आई. आर. (बी. II)]

सी. गंगाधरण, अधर सचिव

New Delhi, the 21st February, 2005

S.O. 1034.—In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of Award Ref. No. 52/2001 of the Central Government Industrial-cum-Labour Court, Lucknow as shown in the Annexure, in the Industrial Dispute between the management of United India Insurance Co. Ltd. and their workmen, received by the Central Government on 18-02-2005.

[No. L-17012/29/2000-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW PRESENT:

SHRIKANT SHUKLA, Presiding Officer

Industrial Dispute No. 52/2001

Ref. No. L-17012/29/2000/IR(B-II) Dt. 2-3-01

BETWEEN:

Shailendra Kumar Kashyap,
S/o Sri Brij Kishore Kashyap,
through B. N. Awasthi,
78/52 Latush Road,
Kanpur (U.P.) 208002

AND

The Branch Manager,
United India Insurance Co. Ltd.,
Branch No. 2-63/3,
The Mall, Kanpur
(U.P.)-208002

AWARD

The Government of India, Ministry of Labour referred the following dispute under order No. L-17012/29/2000/IR (B-II) dated 26-02-2001, 2-3-2001 to Presiding Officer, CGIT-cum-Labour Court, Lucknow for adjudication;

“Whether the action of Branch Manager, M/s United India Insurance Co. Ltd., Kanpur in Terminating the services of Sri Shailendra Kumar Kashyap w.e.f. 21-12-1998 is legal and justified ? If not, what relief the concerned workman is entitled to ?”

The worker's case is that he was appointed by the management of M/s. United India Insurance Co. Mall

Road, Kanpur on 1-1-97 on the condition that in case the work and conduct of the worker is found satisfactory, he shall be regularised/made permanent and after regularisation he shall be entitled to all financial benefits which are available to other class IV employees. Accordingly, the worker continued with his hard labour and honesty and did not give any opportunity of complaint. The worker was being paid @ Rs. 25/- per day. Satisfied from the work and conduct of the worker the management increased the daily wages from Rs. 25/- to Rs. 30/- After working for 240 days the worker requested the management to regularise his services and make him permanent. Aggrieved from the demand of the worker the management officers started harassing the worker but the worker continued to work. The management illegally dispensed the services of the worker in illegal and improper manner, without giving him any notice or notice pay and without giving any reason. The worker thereafter gave written application 20-7-98 for reinstatement but the management did not pay any heed. Accordingly the worker has prayed that the management will be asked to reinstate the worker with continuity of service with back wages and cost of the litigation.

The worker in his rejoinder has stated that he was engaged on the vacant post. He has also stated that he was appointed by verbal order of the management and he was being paid on vouchers and his services were dispensed with orally. It is alleged that the management acted in violation of labour laws.

The worker has filed the photo copies of the following documents :

1. Photo copy of letter dt. 20-7-99 address to Branch Manager, United India Insurance Co. The Mall, Kanpur.
2. Photo copy of experience certificate to the effect that Shailendra Kumar performed his duties as daily wage peon w.e.f. 1-1-97 to 15-4-98 alongwith original certificate.
3. Photo copy of the postal receipt dt. 20-7-98.

Worker also filed his affidavit in support of his case.

The management filed written statement and has stated that the workman was employed as water boy on daily wage basis @ Rs. 25/- per day in the month of March 1997 and he worked w.e.f. 24-3-97 to 27-3-97 and again for one day on 31-3-97. Thus the worker has worked for 5 days in March 1997. It is further stated by the management that the workman was again engaged as water boy on daily wage w.e.f. 21-5-97 to 30-5-97 for 8 days only in the whole month of May 1997. The management has further submitted that thereafter the workman was re-engaged for 5 days in the month of July 1997 w.e.f. 7-7-97 to 11-7-97 and in this manner the workman has totally worked for 18 days only in the month of March, May and July 1997 and thereafter he was never engaged during the year 1997 for single day nor he was employed in the whole year of 1998. It is also stated that there is not a single panny due to the workman at all and payments were made to him through vouchers duly signed and verified. It is wholly false and wrong to allege that the applicant was paid his emoluments

on daily wages weekly basis and management has further specifically denied that he worked continuously for two years with the opposite party on daily wage basis or in any other capacity. The workman did not work for 240 days within one calendar year, thus no right accrue to the workman which can make his termination illegal, if any, as alleged, without following the provisions of I.D. Act nor he has having any right or claim for any post for appointment or wages connected with other benefits from the opposite party. The nature of work was not only casual but also occasional as there was no vacant post on which any other person could be appointed.

The management has filed the following document;

1. Report of Hand Writing Expert Sri S.P. Gupta dt. 17-7-01 with respect of the certificate dt. 15-4-98 being forged which was filed by the workman alleging the same to be genuine document issued to him by the then Branch Manager Sri S.K. Rawat.

The management has filed the affidavit of Hand Writing Expert Sri S.P. Gupta and Sri S.K. Shukla, Asstt. Admn. Officer, United Insurance Co., Kapoorthala, Aliganj Lucknow.

The worker was cross examined on his affidavit on 11-2-2002.

On 5th August, 2003 the worker moved an application C-36 alongwith affidavit C-35 praying that management be directed to produce Sri S.K. Rawat, Branch Manager to prove the genuineness of his signature and Hand writing on the experience certificate dt. 15-4-98 and also provide his specimen signature and hand Writing before this court and further allow to workman concerned to obtain expert opinion from some other Hand Writing expert regarding genuineness of the signature and hand writing of Sri S.K. Rawat on the experience certificate for rebuttal.

On 9-10-2003 application C-36 was disposed off. This court expressed his view that if the worker wanted to confirm the signature of Sri S.K. Rawat on the experience certificate it was his duty to take steps for production of his witness. The Advocate of the worker stated that he want to summon Sri S.K. Rawat on his own expenses and worker will bear all the expenses. However worker was directed to summon Sri S.K. Rawat on his own expenses. It was also ordered that so far as the summoning of expert is concerned the same shall be considered after the evidence of Sri S.K. Rawat 10-11-03 was fixed for the evidence of the workman to examine Sri S. K. Rawat. But on the said date worker moved an application for adjournment and therefore 24-11-2003 was fixed for evidence. On 24-11-03 the worker moved an application C-39 for issuing summon to Sri Rawat on which it was ordered the summon be issued to the witness mentioned in the application provided worker deposit T.A. expenses of Sri Rawat together with D.A. admissible to him within a period of one week. Worker was allowed to deposit T.A. and D.A. admissible to the witness from the United India Insurance Co. Ltd. and accordingly 24-11-03 was fixed for evidence.

The worker did not take steps as ordered on 24-11-2003, on 8-3-2004, 27-5-04 the worker was absent.

and therefore it was believed that the worker does not want to produce any witness and 24-6-04 was fixed for management evidence. The management failed to examine the witness and therefore 10-8-04 was fixed for argument. On 10-8-04 and 1-10-04 parties remained absent. The Presiding Officer gone through the case file and it was considered necessary to summon management witness Sri Sanjay Shukla for examination by the court, on 1-11-04.

On 1-11-04 also the worker remained absent and the opposite party representative Shri Sanjay Shukla appeared and moved an application for adjournment therefore 22-11-04 was fixed for examination of Sri Sanjay Shukla.

Sri Sanjay Shukla was examined by court on 25-1-05. The Worker remained absent on 7-2-05 and therefore heard the opposite party alone and perused the evidence on record.

It is admitted fact that worker was not appointed through any appointment letter nor he was terminated by any termination letter of the management.

The order has alleged in his statement of claim that he worked w.e.f. 1-1-97 to 21-12-98 and his services were terminated on 21-12-98 illegally. The burden was on the worker to prove that he did work w.e.f. 1-1-97 to 21-12-98 as daily wage peon. He has also filed his own affidavit in support of his case and has also filed the experience certificate of Branch Manager, United India Insurance Co., Mall Road, Kanpur to prove that he worked from 1-1-97 to 15-4-98.

The worker in his cross-examination has stated that he was not given any written assurance that he shall be made permanent. However he said that he was assured by Sri. S.K. Rawat that he will be made regular employee. He has also stated that he was appointed for 6 months and he continued to work for 6 weeks. He has also stated that he was being paid on vouchers the photo copies of which in his possession but the payment was sometimes made in his name and sometimes in the name of others. He has also stated that he continued working after six months also. The management has suggested to the worker in his cross examination that the certificate is forged but he has not produced Sri S.K. Rawat to prove that this experience certificate bears his signature.

When the worker cross examined the Branch Manager of United India Insurance Co. Ltd. on 3-5-02 the witness Sri S.K. Shukla stated that the experience certificate is not under the signature of Sri S.K. Rawat.

Sri S. K. Shukla the witness of the management has proved the contents of written statement that the worker worked w.e.f. 24-3-97 to 27-3-97 and again for one day on 31-3-97 and as such he worked in the month of March 1997 for 5 days only and thereafter the worker was again engaged as water boy on daily wage w.e.f. 21-5-97 to 30-5-97 for 8 days only in the whole month of May 1997 and thereafter he was again re-engaged in the month of July 1997 w.e.f. 7-7-97 to 11-7-97 and in this manner the worker worked for total 18 days only in the whole year of 1997 and thereafter he was not employed in the year 1998.

I have examined Sri Sanjay Shukla on 25-1-05 he appeared in the court with original vouchers. I have

examined him in detail. From careful examination of the management witness I come to the conclusion that the worker was not terminated on 21-12-98 as per reference. From the evidence on record it is proved that worker did not work in the year 1998. The worker last worked on 11-7-97 only thereafter he was not engaged.

Regarding the experience certificate Sri Sanjay Shukla has stated that opposite party Insurance Co. is public institution and the worker's are engaged as per the prescribed procedure and no Branch Manager is allowed to appoint anyone without observing the prescribed procedure. About referring to the experience certificate issued by Sri S.K. Rawat the witness has stated that the same is totally forged. The said certificate does not bear the reference or any file of the office. It is alleged by him in examination that the worker with a view to succeed in the case has concocted forged certificate, Sri Shukla has also stated that Sri S.P. Gupta hand writing expert after checking the certificate has filed his report paper No. 7/20. He has also stated that expert has given his opinion that the signature of Sri S.K. Rawat on the said certificate is forged. From evidence on record and discussions above I come to the conclusion that the worker has not been able to prove that he was appointed on 1-1-97 as has been alleged by him nor he was terminated on 21-12-98. Worker has also not been able to prove that he worked for 240 days as alleged by him. Worker's testimony is not trustworthy in the circumstances I come to the conclusion that the worker was not terminated as alleged by the worker on 21-12-98. Therefore there is no question of illegality or legality, justification etc. The issue is answered accordingly. The worker is not entitled to any relief.

Lucknow 18-2-2005

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 21 फरवरी, 2005

का.आ. 1035.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हरियाणा मिनरल्स लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली-II के पंचाट (संदर्भ संख्या 87/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-02-2005 को प्राप्त हुआ था।

[सं. एल-29012/49/95-आई.आर. (विविध)]

बी०एम० डेविड, अवर सचिव

New Delhi, the 21st February, 2005

S.O. 1035.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 87/95) of the Central Government Industrial Tribunal-cum-Labour Court, New Delhi-II as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Haryana Minerals Ltd. and their workmen, which was received by the Central Government on 21-02-2005.

[No. L-29012/49/95-IR(M)]

B.M. DAVID, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, RAJENDRA BHAWAN, GROUND FLOOR, RAJENDRA PLACE NEW DELHI

PRESIDING OFFICER: R.N. RAI

LD NO. 87/95

IN THE MATTER OF:-

Sh. Anil Kumar,
S/o Sri Uday Shankar Sinha
R/o H. No. 1650A, Sector 29,
Faridabad (Haryana).

VERSUS

The Managing Director,
Haryana Minerals Ltd.
703-704, 7th Floor, Arunachal Bhawan,
19, Barakhamba Road, New Delhi.

AWARD

The Ministry of Labour by its letter No. L-29012/49/95-IR (Vividh) Central Government dt. 29-08-1995 has referred the following point for adjudication.:-

The Point runs as hereunder :-

“Whether the action of the management of M/s Haryana Minerals Ltd. in terminating the services of Sh. Anil Kumar w.e.f. 30-11-93 is justified? If not, to what relief the workman is entitled to?”

The claimant has filed statement of claim. In the statement of claim, it has been stated that the petitioner (Anil Kumar S/o Sh. Uday Shankar Sinha) was given an employment in Haryana Minerals Ltd. on 13-11-89 as Bill Clerk on daily rated by the managing director of the Co. which is a State Govt. undertaking. That, the service record of the petitioner had been quite satisfactory and unblemished.

That, the petitioner was transferred to Manager Mines in 1993. The Mines manager of that Mines was annoyed with him, for the petitioner's active participation in HML Officers & Staff Association for which the petitioner has the constitutional right. That, the then Mines Manager (Sh. Beg Raj Nagar) in order to harm him started harassing him and started marking him absent from 1-10-93 for one reason or the other though the petitioner remained very much present on duty.

That, suspecting his ill will, the petitioner made a complaint against him with the project Incharge, Fbd. of HML and applied for leave w.e.f. 22-10-93 to 20-11-93. After taking the permission of both, he proceeded on leave. That, when the petitioner came back after availing the leave the mines manager did not allow him to join duty and kept the petitioner assuring that he would allow him joining only after taking permission from the competent authority.

That, when the petitioner became absolutely sure that the Mines Manager would not allow him on duty, the petitioner vide letter dated 28-12-93 requested him to supply

the reason for not taking him on duty and copies of letter were also endorsed to Managing Director, HML, Project Incharge, Fbd. E.O. HML, LEO (C) Fbd. and ALC (C)-Rohtak for necessary action in the matter.

That, no action was taken either by Managing Director or Project Incharge as the then Mines Manager (Sh. Beg Rai Nagar) was in close confidence of the then Managing Director (Sh. Chander Singh IAS) as both belonged to the neighbouring villages.

That, no termination order was issued by the competent authority. The Manager concerned himself perhaps produced the letter of termination on his file as the petitioner never received any such letter. Moreover, this letter did not bear any address on which it was sent nor it tells that the letter was served by the company's courier. That, thus the management went all the illegal ways to terminate the services of the petitioner without giving him any opportunity of hearing of following a legal procedure. Thus, not natural justice was given to the petitioner and was subject to gross inhuman atrocities. This amounted to unfair labour practices punishable under the Industrial Disputes Act, 1947.

The management has filed written statement. In the written statement, it has been stated that the claim of the workman/claimant is wholly wrong baseless and misconceived. It is not maintainable. The workman/claimant joined the answering management as daily wager in the capacity of a bill clerk at the rate of wages prescribed by the Central Government from time to time. He was a habitual absentee. On 4-8-93 and 5-8-93, he remained unauthorisedly absent from his duties for which he was warned by the project Manager vide his order dated 9-8-93. He again remained absent from 1-10-93 without any intimation causing losses to the answering management as due to his absence the work of the management suffered heavily. He was sent letter No. HML/FBD/PALI/93/175-78 dated 5-10-93 for joining his duties immediately. He was further warned that in case he failed to join his duty necessary action would be taken against him. Subsequently he was sent notices dated 20-10-93 and 13-11-93 (Regd.) Despite all the best efforts by the answering management, the workman continued to be absent from his duties. The competent authority has finally to order to dis-continue his name from the rolls of the management as per applicable rules and regulations. Accordingly the workman was sent letter No. HML/P/93/364-67 dated 30-11-93.

That the reference is bad in as much as this Ld. Tribunal has no jurisdiction to entertain and decide the claim petition. That the workman/claimant has no *locus standi* to file the instant claim much less the same is sustainable in law. That the workman/claimant is gainfully employed.

It is wrong and incorrect to say that the claimant could participate in the activities of the officers staff association when he himself was a daily rated workman. There is no question of any harassment. The claimant never applied for any leave and never sought any permission as alleged.

The workman/claimant was not on duty as alleged. It is wrong to say that he did not receive the notices mentioned in the para under reply. The workman/claimant when refused to accept the letter dated 5-10-93 the messenger had to hand over the notice to Sh. Sunil Kumar Bill clerk and endorsement to his effect was made on the back of the letter/notice dated 5-10-93 likewise the letter/notice dated 20-10-93 was also served and endorsement was made on the back of the same by the messenger. The letter dated 13-11-93 was sent by registered post at his permanent address. It is submitted that the address mentioned in letters dated 5-10-93 and 20-10-93 was supplied by the workman/claimant and the same is entered in form B register maintained as per rules in the mines. Rest of the contents are wrong and misconceived.

The workman/claimant was served the order dated 30-11-93 terminating his service as stated in Para 2 of the preliminary objections hereinabove after complying the principles of law and justice.

The workman applicant has filed rejoinder. In his rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim of the claim statement. Evidence of both the parties has been taken. Written arguments from both the sides have been filed. The workman applicant despite knowledge is absenting from January, 2004. He was not present on the date of argument; however, he has filed a written argument. In the written argument it has been submitted that the workman applicant was posted as Bill Clerk from 13-11-1989. The Mines manager in order to harm the workman started harassing and started making him absent from 01-10-1993 for one reason or the other though the workman was not absent from the duty. The workman made a complaint against him with the Project Incharge and applied for leave from 02-10-1993 to 20-11-1993 and after permission he preceded on leave. When he came back on 21-11-1993 after availing the leave, the Mines Manager did not allow the workman to perform his duty and kept the workman assuring that he would allow the workman after taking permission from the competent authority. He was terminated on 30-11-1993. The termination is illegal, arbitrary and unjustified.

It was submitted from the side of the management that the workman applicant gave no leave application. He has admitted in his cross-examination that he did not remember if he had written any letter to the Project Manager due to his absence on 4/5-08-1993. It is incorrect that the application was signed by him. He did not give any application prior to 22-10-1993 as such the workman applicant did not give application for 04-08-1993 and 05-08-1993 and he has not given application for leave from 05-10-1993 to 20-11-1993. He has not filed any application on the records. MW1/1, Shri Raj Kumar Bill Clerk has deposed that the workman applicant sought apology for his absence on 09-08-1993 and he was issued warning letter on 14-08-1993. This witness got the signature of the workman and the workman read the warning letter and signed the same in his presence. Letter dated 05-10-1993 and 20-10-1993 were delivered by the messenger Shri Rajinder

Singh to Shri Sunil, Bill Clerk the brother of the workman. Shri Anil Kumar was also posted at the same time he refused to receive the letter as such it is proved that the letter of his absence was sent to him twice and he was warned for the same. It is altogether false that the workman applicant proceeded on leave after getting sanction from the Project Manager. He was working on the project so there is no question of regularisation on Project. The workman was warned for his two days absence without leave and he was sent letters two times to join his duty but he did not do so. He directly signed demand notice and thereafter made application for conciliation proceedings as such the workman applicant was absent for a long time without any notice. The management of the Haryana Minerals Limited has filed affidavit. From the affidavit it is obvious that the Haryana Minerals Limited has been closed. It has no fund to make any payment. It was also argued that the workman applicant was employed elsewhere gainfully so he did not turn up on several dates despite knowledge.

Shri Beg Rai, Mines Manager has also filed affidavit. According to his affidavit also letter dated 05-10-1993 and 20-10-1993 were sent to the workman applicant but he did not turn up despite service. Letter dated 13-11-1993 was sent by Registered Post at his permanent address still he did not turn up. This indicates that the workman applicant was employed somewhere else so he did not turn up. There is no application on the records filed by the workman applicant for leave. In the facts and circumstances of the case the law cited by the workman applicant are not applicable. The workman applicant willfully absented from duty and he did not turn up despite service of the notice. He directly approached the Regional Labour Commissioner (C) for conciliation. He was employed on Project. The Haryana Minerals Limited has been closed as such the workman applicant is not entitled to be reinstated.

The reference is replied thus :—

The action of the management of M/s Haryana Minerals Limited in terminating the service of Shri Anil Kumar w.e.f. 13-11-1993 is justified. The workman applicant is not entitled to get any relief as prayed for.

The Award is given accordingly.

Date : 18-02-2005 R.N. Rai, Presiding Officer

नई दिल्ली, 22 फरवरी, 2005

का.आ. 1036.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन एअर लाइंस लिं. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नई दिल्ली-II के पंचाट (संदर्भ संख्या 166/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-02-05 को प्राप्त हुआ था।

[सं. एल-11012/58/98-आई आर (सी-1)]

एस.एस. गुप्ता, अधर सचिव

New Delhi, the 22nd February, 2005

S.O. 1036.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award No. 166/98) of the

Central Government Industrial Tribunal/Labour Court, New Delhi-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Airlines Ltd. and their workman, which was received by the Central Government on 21-02-2005.

[No. L-11012/58/98-IR(C-I)]
S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM LABOUR COURT-II, RAJENDRA BHAWAN, GROUND FLOOR, RAJENDRA PLACE NEW DELHI

PRESIDING OFFICER: R.N. RAI LD No. 166/98

In the Matter of:—

Sh. R. K. Mehta,
51/2, Ram Nagar,
Ambala City, Haryana

VERSUS

The General Manager (Personnel),
Indian Airlines Ltd.,
Safdarjung Airport,
New Delhi.

AWARD

The Ministry of Labour by its letter No. L-11012/58/98-IR (C-I), Central Government dt. 14.08.1998 has referred the following point for adjudication.

The Point runs as hereunder :—

“Whether the action of the management of Indian Airlines Ltd., New Delhi in dismissing Shri R. K. Mehta, Driver, from service w.e.f. 8-7-1997 is just, fair and legal ? If not, what relief Shri R. K. Mehta is entitled and from what date.”

The workman has filed statement of claim. In his statement of claim, it has been stated that the workman hails from very poor family and because of poverty he could not continue his studies and enrolled in the Air Force and subsequently appointed in the office of Management as Driver. That while working in Management office the workman was put under suspension by the authority vide order dt. 20-04-1996 and issued a charge sheet under vide charge memo IGIA:PS:DIS:2745 dt. 09-05-1996 and alleged the following charges :

“At about 1330 hours on 19-04-1996 you were found using abusive language against officers of Indian Airlines Ltd. outside, MI Movement Office, when Shri K. L. Malik, Asstt. Manager (Ipt) requested you not to do so. You him and said “To kya management ka dalal hai jo mujhe galliya dene se rok sakta hei : (Are you an agent of the management to stop me from abusing). Saying this you caught hold of the collar of his shirt and started blowing your fist on his face. One of your blows hit him his left cheek and he started bleeding from his mouth as a consequence. He had to be sent to dispensary for medical aid.

Your aforementioned act of misbehaviour with Shri K. L. Malik, if proved shall constitute misconduct under

Indian Airlines Ltd. Standing orders applicable to you and read as under :—

Clause 20(15) : Habitual break of any standing order or any law or rules applicable to the Establishment.

Clause 28(10) : Riotous, disorderly or indecent behaviour in the premises of the Establishment.

Clause 20(20) : Commission of any act subversive of Discipline or of go of behaviour in the premises of the Establishment."

That along with the charge sheet there was a list of documents and a list of witnesses were also annexed but the copies of the documents and the statement of the list witnesses were not supplied to the petitioner by which the petitioner was deprived to make an effective representation against the charge sheet. However, the workman made a representation to his personal knowledge and denied all the charges. That the disciplinary authority I, without considering the truthness of the charge and without considering the reply of the workman passed the order of conducting enquiry against the workman and appointed an enquiry officer to conduct the enquiry against the workman on the alleged charges.

That the enquiry was conducted only on the papers but in fact no enquiry was conducted as the workman was not given any opportunity to engage his defence helper despite his special request to the enquiry officer and also not given any opportunity to cross examine the witnesses and to produce his defence. That it is relevant to submit here that the petitioner made special representation one after another against the charge sheet and demanded justice from the disciplinary authority and other previous representation but the enquiry officer in a biased manner without giving any opportunity to the workman of any kind completed his enquiry.

That the enquiry officer cross examined all the witnessed only to fill up the gaps so that the workman could be brought at guilt. The principles of natural justice have been violated and the workman was not given the reasonable opportunity to produce his defence. That the first sitting of the enquiry was on 31-01-1997 and only in a single day the enquiry officer completed his enquiry. It is submitted that on 31-01-1997 the workman made a special request to the enquiry officer for time till 07-02-1997 for producing his witness and documents in his defence as admitted by the enquiry officer on his report at page No. 2. But the Enquiry Officer without considering the same in a biased and arbitrary manner closed the enquiry. That the Enquiry Officer submitted his report in which proved the charges but stated that charges vide sub-clause 20(5) not proved.

That a show cause notice was given to the workman for proposed punishment without supplying the copy of EO report and without giving any opportunity to make a representation against the EO report. It is submitted that the action of disciplinary authority to issue show cause notice of proposed punishment without giving reasonable opportunity to the workman to make any representation against EO report is illegal in the eyes of law. That the

workman made a reply to the show cause notice but the disciplinary authority without applying his mind passed the impugned dismissal order vide dt. 08-07-1997. That the whole action of the management dismissing the workman from service is illegal, unjust, arbitrary, against the rules and against the principles of natural justice and therefore the impugned dismissed order dt. 08-07-1997 is liable to be set-aside on the following grounds.

The workman has not committed any misconduct and the charge sheet 09-05-1996 is based on false allegation and without any evidence. On plain reading of the impugned charge sheet dt. 09-05-1996 it is clear that the impugned charge sheet is vague, uncertain and does not specify the impugned misconduct against the petitioner and thus the impugned charge sheet itself is not maintainable in the eyes of law. From the plain reading of the impugned charge sheet, there is no misconduct against the workman and it will not be out of place to mention here that mere alleged act of the petitioner as alleged by the department does not constitute any misconduct and the disciplinary authority has not mentioned under what rule the alleged misconduct has been framed and hence the action of the disciplinary authority is arbitrary and the same is liable to be quashed.

It is well settled principle of law laid down by the Hon'ble Supreme Court that if the copies of listed documents and copies of the statement of the listed witnesses are not supplied to the delinquent along with the charge sheet then the whole enquiry is liable to be quashed on this sole ground.

The EO cross examined the witnesses at length which is against the mandatory provision of law and against the principles of natural justice as one cannot act as a judge as well as prosecutor and hence the whole enquiry is illegal. It is submitted that the EO has cross examined all the witnessed only to bring the petitioner guilty by way of searching question to the witness and hence it can be said the EO acted himself against the mandatory provisions of law. The workman was not given any opportunity to produce his defence with needs, defence document on special request. The EO completed the enquiry only in a single day in a biased manner without adopting the procedure and applying the principle of natural justice.

Inspite of repeated request the workman was not given an opportunity to engage his defence helper. EO report was not supplied before issuing the show-cause notice of proposed punishment which is not only illegal but also against the principles of natural justice. The punishment given to the applicant is not commensurate to the gravity of the misconduct and therefore the impugned order is illegal. The applicant was not given personal hearing by the disciplinary authority before passing the dismissal order which is illegal. The EO did not conduct the enquiry as per rules and without applying the principles of natural justice and therefore the whole proceedings is liable to be quashed.

The management has filed written statement. In the written statement, it has been stated that the inquiry is based on an incident that took place on 19-04-1996 in which

the workman abused and assaulted an officer of the management, serious charges of misconduct were levelled against him. Pending service of a formal charge sheet, the workman was put under suspension vide letter dt. 20-04-1996. Subsequently the workman was formally charge sheeted vide charge sheet dt. 09-05-1996.

It is also denied that the workman made any representation to the management in his defence against the charges levelled against him. No representation was ever received by the management as alleged. The workman is not placing the true fact before the Hon'ble Tribunal and making statements which are self contradictory and therefore unbelievable. The workman stated during the inquiry proceedings that no charge sheet has been received by him till that time and in his claim statement he is alleging non consideration of his reply to the charge sheet before institution of domestic inquiry by the management. As a matter of fact no reply of the workman against the charge sheet was received by the management and therefore the question of non consideration of the same by the management does not arise.

The workman participated in the domestic enquiry, submitted that he would like to conduct his defence himself and refused to cross examine the witnesses of the management who deposed in the inquiry proceedings in his immediate presence. The workman repeatedly asserted that he did not want to cross examine them in the inquiry proceedings and that he would cross examine them only in the court. The request of the workman to take the assistance of an advocate in the inquiry proceedings was not allowed by the inquiry officers in view of there being no rule to that effect in the service conditions applicable to the workman. The workman was given sufficient opportunity to produce his defence and the statement of the workman to the contrary is without any basis and hence denied.

The management did not receive any communication from the workman as alleged in para under reply and the workman be put to specific proof of the same. The enquiry was conducted in accordance with the principles of natural justice, wherein the workman was given ample opportunity to defend himself by cross examining the witnesses of the management, as well as to present the evidence in his defence. The management relied upon the record of the proceedings in support of their contention that the inquiry was conducted in accordance with the principles of natural justice and that the contentions of the workman to the contrary are without any basis and false to the core.

It is denied that the first sitting of the inquiry was on 31-01-1997. In fact prior to this date the proceedings were conducted on 13-09-1996, 13-11-1996 and 10-12-1996 as well and the workman participated in the proceedings held on 13-09-1996 and 10-12-1996. The workman signed the proceedings held on these two dates and now he is deliberately making a wrong statement before this Tribunal in order to prejudice it in favour. It is denied that the inquiry was closed in a single day as alleged. The fact is that in the proceedings held on 31-01-1997, the workman stated that he did not wish to lead any oral evidence and rather submitted three documents in his defence which were

taken on record the same day. The workman sought time upto 07-02-1997 in order to file few more documents and his request was accepted by the inquiry officer. As nothing remained to be done in the inquiry proceedings, therefore the inquiry officer closed the proceedings. The allegations of arbitrary and biased behaviour on the part of the inquiry officer are without any basis and therefore strongly denied by the management.

It is specifically denied that the report of the inquiry officer was not sent to the workman alongwith the memo dt. 17-03-1997. As the workman failed to respond to the memo dt. 17-03-1997 along with which a copy of the inquiry officer's report was enclosed, therefore the management issued a show cause notice dt. 02-04-1997 in which the workman was called upon to show cause against the proposed punishment. The allegation of the workman that he was issued a show cause notice without giving him opportunity to make representation against the report of the inquiry officer is against the record and hence vehemently denied. That the contents of para 11 of the claim are incorrect and therefore denied by the management. The workman's representation dt. 07-04-1997 was considered by the disciplinary authority before passing the order of dismissed but as the same contained no merits therefore the same was rejected by the management.

It is wrong and denied that the inquiry proceedings stood vitiated on the ground of allegedly non supply of documents to the workman, which in any case were supplied to him. The facts is that the witnesses examined in the inquiry were not cross-examined by the inquiry officer as alleged in para under reply. The inquiry record reveals that only the management led its evidence and the workman refused to cross examine the witnesses of the management. The record also reveals that the workman did not lead any oral evidence. Therefore the question of cross examination of the witnesses by the E.O. does not arise. It appears that the workman himself is not clear about the submissions made by him in his claim statement and therefore they do not deserve any serious attention of this Tribunal.

As the standing orders applicable to the workman did not permit the assistance of an advocate during the inquiry, therefore the request of the workman was turned down. The workman was supplied with a copy of the report of the inquiry officer which was received by him, but he is not accepting the receipt of the same with ulterior motives. Moreover in para 9 of his claim statement the workman has stated that the inquiry officer held the charges under sub clause 20(5) as not proved, which he could not have known unless he had received a copy of the report. Therefore the statement of the workman that a copy of the report was not supplied to him is without any basis and therefore vehemently denied.

The workman has filed rejoinder. In his rejoinder he has stated that he was not given charge sheet. The statement of witness of preliminary investigation was not provided to him. He has further submitted that he was not permitted to engage any Advocate and he is not permitted to be defended by any fellow employee. He was not given

any opportunity for cross-examination of the witnesses. He was not supplied all the reports of the inquiry and lastly it has been submitted that he was not given any opportunity to produce evidence in his defence. He has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken. No one was present from the side of the management on the date of argument. The workman applicant was present.

Heard workman applicant and perused the papers.

From the perusal of the inquiry report, it transpires that the workman applicant was present on the first date of inquiry i.e. 13-09-1996. It transpires from the perusal of the proceeding of that day that the charge sheet was sent to him by Registered A.D. to his residential address on record but he was still given copy of the charge sheet as well as photocopies of four documents relevant to the charge sheet on the date of inquiry. The workman applicant perused the papers but he could not understand the same so it was read out by the Enquiry Officer and the workman then stated that he had understood the contents of the charge sheet. He has put his signature on the proceedings of the inquiry of that day. As such the charge sheet and the documents were provided to the workman applicant. He has also accepted that he has received two letters regarding the appointment of the Enquiry Officer and the Presenting Officer. He was also asked if he wanted the assistance of friend during the course of inquiry. He said that he required assistance of a friend during the course of inquiry but he stated that he would make arrangement for a friend and requested for the adjournment of the inquiry so the inquiry was adjourned for 5th October 1996. On 10-10-1996 he was not present till 10.45 hrs the inquiry was adjourned but he appeared at 11.00 hrs. so the inquiry was postponed for 23rd December 1996. The inquiry was further held on 31-01-1997. The workman applicant was present. Evidence of Shri K. L. Malik was first taken. The workman applicant was asked to cross-examine Shri K. L. Malik. He replied that he would cross-examine him in the Court and not here. The second witness Shri A. K. Tanuja was thereafter produced and the workman was asked to cross-examine Shri Vijay Kumar the next witness. He replied that he would conduct cross-examination in the Court and not here.

Thereafter Shri S. S. Kaushal staff was examined by the Presenting Officer and the workman was asked if he wanted to cross-examine Shri S. S. Kaushal. He stated that he would conduct his cross-examination in the Court and not here. Thereafter the workman applicant was asked to present evidence either oral or documentary free in his defence. The workman replied that he did not wish to give any oral witness. He wanted some documents to be admitted in defence. He submitted the documents and the documents were admitted. The workman applicant also wanted to give some more documents by Friday, 7th February 1997. He was permitted to file the documents till 7th February 1997 in his defence. He was further asked if he wanted to say anything in defence, he replied that he would give it in writing by 7th February 1997 and thereafter the inquiry was concluded.

From the perusal of the inquiry report it transpires that the charge sheet and the documents were given during the course of inquiry. The contents of the same were read out before the workman applicant. He understood them and thereafter the inquiry was postponed.

From perusal of the inquiry dated 31-01-1997 it is quite evident that the workman applicant was present. The statement of three witnesses were taken and he was asked to cross-examine the witnesses but every time he replied that he would cross-examine the witnesses in the Court.

It also transpires from the perusal of the inquiry report that the workman applicant was asked to take assistance of some employee but he said that he would arrange himself employee for his defence. He wanted to engage some Advocate but that was refused by the Enquiry Officer as there was no provision for bringing the outsider or an Advocate for the domestic inquiry.

It also transpires from the perusal of the inquiry dated 31-01-1997 that the workman applicant has participated fully in the inquiry. He has put his signature and a copy of the proceeding was given to him. He has put his signature there also. He has been asked to give evidence in defence. He has submitted three documents. The documents have been admitted by the Enquiry Officer and he has been given time till 7th February, 1997 for submission of additional documents in his defence. As such proper opportunity for defence evidence has been given to the workman applicant. It is not the case of the workman applicant that his documents in defence were not admitted by the inquiry officer. It is the case of the workman applicant that copy of the inquiry report was not given to him but from the perusal of the inquiry report it becomes quite obvious that copy of the inquiry report was given to the workman applicant and he was given opportunity of personal hearing and he appeared for personal hearing. He did not submit any document on 7th February 1997. He has put his signature on 7th February 1997 as such he was present but he did not submit any document as such ample opportunity has been provided to the workman applicant to submit documents in his defence. He did not submit the same so the inquiry officer gave findings and found the charge levelled against the workman applicant proved. The workman applicant has put his signature on that paper also. It has been mentioned in the order of the Dy. General Manager dated 02-04-1997 that the inquiry report was supplied to him dated 17-03-1997 but he did not produce any written submission and he was again asked to submit regarding proposed punishment but he did not submit any explanation regarding proposed punishment so he was dismissed from service.

Since no argument was advanced so it is necessary to mention the evidence given by both the parties and by way affidavit and their cross-examination. The workman applicant has admitted in his cross-examination that he took part in the departmental inquiry on all the dates from the beginning to the end so it is proved by his admission that he was present on all the dates of inquiry. He has further admitted that the Enquiry Officer provided him opportunity to take any employee in his defence but he did not bring any employee. From this admission it is also apparent that he was given opportunity to take an

employee for defence but he did not bring any employee to defend himself. He has also admitted that he was present before the disciplinary authority before award of punishment. He did not give anything in writing but he has told him orally that he was not given any opportunity of defence. So from the admission of the workman applicant also it transpires that he has been provided opportunity for defence and a copy of the inquiry report has been given to him as mentioned above. He participated on all the dates of his inquiry. He did not cross-examine the witnesses, as he wanted to cross-examine the witnesses in the Court. As such full-fledged inquiry has been held and the principles of natural justice have been fully followed. Every opportunity has been given to the workman applicant. The inquiry is fair. No interference is required. The punishment awarded is also appropriate.

The reference is replied thus :—

The action of the management of the Indian Airlines Limited, New Delhi in dismissing Shri R.K. Mehta, Driver from service w.e.f. 8-7-1997 is just, fair and legal. The workman applicant is not entitled to get any relief as prayed for.

The Award is given accordingly.

Date : 18-2-2005

R.N. Rai, Presiding Officer

नई दिल्ली, 22 फरवरी, 2005

का.आ. 1037.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसर में, केन्द्रीय सरकार मैं जगसन एवं लाइस लिंग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-II नई दिल्ली के पंचाट (संदर्भ संख्या 175/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/02/05 को प्राप्त हुआ था।

[सं. एल-11012/50/96-आई. आर. (सी-1)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 22 nd February, 2005

S.O. 1037.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of Award (Ref. 175/97) of the Central Government Industrial Tribunal-cum-Labour Court-II, New Delhi as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. Jagson Airlines Ltd. and their workmen, which was received by the central Government on 21-2-2005.

[No. L-11012/50/96-IR(C-1)]
S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL: CUM LABOUR COURT-II, RAJENDRA BHAWAN, GROUND FLOOR, RAJENDRA PLACE NEW DELHI

PRESIDING OFFICER: R.N. RAI LD NO. 175/97

IN THE MATTER OF:—

Sh. Bharat Singh S/o Sh. Shiv Nath,
R/o D-44/45 Village Mangla Puri, Palam Colony,
New Delhi-45.

VERSUS

M/s. Jagson Airlines Ltd,
Palam Airport, Terminal-B,
New Delhi.

1Ind Address :—
Vandana Building,
Tolstoy Marg, Cannought Place,
New Delhi.

AWARD

The Ministry of Labour by its letter No. L-11012/50/96-IR (Coal-I) Central Government dt. 13.10.1997 has referred the following point for adjudication.

The Point runs as hereunder :—

The claimant has filed statement of claim. In the statement of claim, it has been stated that the Govt. of India vide its Notification No. 175/97 Lab. Dated 3-11-97 has referred this dispute under section or 10 of the Industrial Dispute Act 1947 for adjudication to this Hon'ble Court. That the applicant/workman was employed by the aforesaid management on 20-12-93 as a driver on a monthly salary of Rs. 1800/-

That the applicant/workman worked with the said management and performed his duty efficiently, honestly and to the entire satisfaction of his superiors. He was asked to work from 2.30 A.M. to 1.30 Noon i.e. for 15 hours daily by the management but he was never paid for the over time by the management.

That the applicant workman was detailed by the management to bring the air hostesses to the airport for their respective flights the applicant while discharging his duty unfortunately met with an accident on 19-6-95 at about 5.15 A.M. as a result he sustained serious injuries to his person and fracturing in his left hand though the matter was reported to the management but the management neither reported the matter to the police nor provided any medical aid to the applicant workman.

That the applicant was first treated at Safdarjung Hospital and then by Jainak Hospital Janak Puri, New Delhi and a rod has also been inserted in his left hand. He spent heavy amount for his treatment totally about Rs. 50,000/- That the management did not provide the facilities such as P.F.E.S.I. Uniform leave etc. as provided under the provision of law to the applicant workman against which he complained to the management but no heed was paid by the management and when the applicant demanded the aforesaid facilities as well his over time he was theretained by the management and was not paid by the management.

That the applicant sent demand notice dated 22-8-95 but the management did not reply to the said notice and thereafter the applicant complained the matter to labour commissioner to settle the dispute the conciliation also took place but the management instead of reinstating the workman with full back wages and legal entitlement illegally terminated the service of the workman and refused

to reinstate the applicant workman then the matter has been referred to this Hon'ble Court for adjudication.

That the management has not paid any salary to the workman from June 1995 onward to and also illegally terminated his service. The said action of the management also constitutes unfair labour practice within the meaning of the provision of the I.D. Act before terminating the service of the workman no notice or explanation was invited nor any sort of compensation was offered.

Under the circumstances it is respectfully prayed that this Hon'ble Court be pleased to pass an award directing the management to reinstate the workman with full back wages and continuity of service holding the termination of the workman illegal and unjustified.

The management has filed written statement. In the written statement, it has been stated that the claim statement does not disclose the alleged date of termination. Therefore the same deserves rejection as it does not disclose any cause of action. That the order of reference mentions 20-6-95 as alleged date of termination whereas the documents relied upon by the workman disclose extension of his entry permit by Bureau of Civil Aviation Security upto 20-11-95 depicting the workman as an employee of the management as on 30-8-95. The claim statement, the order of reference and the documents relied upon by the workman are self contradictory and therefore no relief can be granted by this Hon'ble Court.

That the workman has drawn his wages upto August, 1995 and therefore the date of termination w.e.f. 20-6-95 as depicted in order of reference is not based upon facts and therefore deserves rejection by this Hon'ble Court without giving any relief to the workman.

However, as stated above the order of reference is not based upon facts and therefore illegal and void. The work and conduct of the workman was not satisfactory. He was never asked to perform any overtime therefore the question of payment of overtime does not arise.

No accident took place as per the knowledge of the management on 19-6-95. No intimation of the same was ever received by the management. It is denied for want of knowledge that the workman sustained any injuries. The workman has not provided particulars of the vehicle alleged to have met an accident.

However, the OPD ticket filed by the workman alongwith his claim shows that his P.O.P was removed on 21-6-95 i.e. only two days after alleged date of accident. It is denied for want of knowledge that any amount was spent by the workman on treatment. No threat as alleged by the workman was extended to him by the management nor any payment legally due to him was withheld by the management.

The workman was paid his due wages from January, 1995 to August, 1995. It is also denied that his services were terminated by the management. The management did not resort to any unfair labour practice.

The management has filed rejoinder. In his rejoinder he has reiterated the averments of his claim and has denied

most of the paras of the written statement. The management has also denied most of the paras of claim statement.

Evidence of both the parties has been taken.

The workman applicant was present on 16-3-2004 and 15-7-2004 but thereafter he absented. He was not present on 12-08-2004, 21-11-2004, 07-12-2004 and 19-12-2004, 13-01-2005, 04-02-2005. He has not been available for cross examination though he has filed affidavit. He has knowledge of the date. It was stated by the management that he is working somewhere else that is why he is not turning up. The workman applicant has not been cross examined.

Heard arguments from the side of the management.

It appears from the claim statement that the workman applicant met with an accident on 26-06-1995. Appointment letter for six months has been issued to the workman applicant on probation. The workman applicant has not produced any evidence. No original document has been filed. The workman has moved several adjournment application still he was not present for cross-examination as such the claim statement of the workman applicant is not supported by any evidence. He has not filed any original paper which has been referred to in the statement of claim as such the workman applicant has not been able to prove his case.

The reference is replied thus :—

The action of the management of Jagson Airlines Limited in terminating the service of Shri Bharat Singh, Driver w.e.f. 26-6-1995 is just fair and legal. The workman applicant is not entitled to get any relief as prayed for.

The Award is given accordingly.

Dated : 17-2-2005.

R. N. Rai, Presiding Officer

नई दिल्ली, 22 फरवरी, 2005

का.आ. 1038.—ऑप्पोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई. बी. पी. कम्पनी लिंग के प्रबंधनत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औप्पोगिक विवाद में केन्द्रीय सरकार औप्पोगिक अधिकरण/त्रिम न्यायालय-II, नई दिल्ली के पंचाट (संदर्भ संख्या 56/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-2-05 को प्राप्त हुआ था।

[सं. एल-20040/73/94-आई. आर. (सी-1)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 22nd February, 2005

S.O. 1038.—In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award No. (Ref. 56/96) of the Central Government Industrial Tribunal/Labour Court-II, New Delhi now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of I. B. P. Company, Ltd., and their workmen, which was received by the Central Government on 19-02-2005.

[No. L-20040/73/94-IR(C-1)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, RAJENDRA BHAWAN, GROUND FLOOR, RAJENDRA PLACE NEW DELHI

PRESIDING OFFICER: R.N. RAI LD NO. 56/96

IN THE MATTER OF :-

Sh. Kartar Singh & Others,
C/o All India Engineering and General Mazdoor Union,
E-127, Karampura,
New Delhi-110015.

VERSUS

The General Manager,
M/s. I.B.P. Company Ltd.,
Shakur Basti,
Rohtak Road,
New Delhi-110056.

AWARD

The Ministry of Labour by its letter No. L-20040/73/94-IR (Coal-I) CENTRAL GOVERNMENT DT. 14-05-1996 has referred the following point for adjudication.

The Point runs as hereunder :—

“Whether the claim by the Union that Shri Kartar Singh and 17 others (as per list enclosed) were employed by M/s. I.B.P. Co. Ltd., Shakur Basti, Rohtak Road, Delhi is justified and whether the workmen are entitled for regularisation by the management w.e.f. dates mentioned by the union against their names with consequential benefits? If so, what relief are these workmen entitled to.”

The Union has filed statement of claim on behalf of the workmen. In the statement of claim, it has been stated that the workmen were appointed by the management. The names, designation, duration of service, salary last drawn and the date of termination of workmen is tabulated below :—

Sl. No.	Name	Post held	Length of Service	Last drawn pay	Date of termination
1.	Kartar Singh	Loader	5 Yrs.	900/-	1-1-94
2.	Puran Chand	Loader	7 Yrs.	900/-	1-1-94
3.	Raja Ram	Loader	10 Yrs.	900/-	1-1-94
4.	Ummad Singh	Loader	8 Yrs.	900/-	1-1-94
5.	Ramesh Kumar	Loader	5 Yrs.	900/-	1-1-94
6.	Aadil Khan	Loader	9 Yrs.	900/-	1-1-94
7.	Rattan Singh	Loader	15 Yrs.	900/-	1-1-94
8.	Hans Raj	Loader	8 Yrs.	900/-	1-1-94
9.	Gurnam Singh	Loader	15 Yrs.	900/-	1-1-94
10.	Vasudev	Loader	8 Yrs.	900/-	1-1-94
11.	Maryanus	Loader	2 Yrs.	900/-	1-1-94
12.	Jaipal Singh	Loader	7 Yrs.	900/-	1-1-94

It is stated that the above said workmen were performing their duties with the management continuously without break and had completed more than 240 days of service in a year as has been contemplated under the provisions of Section 25-b of the Industrial Tribunal Act. It is stated that the performance of the workmen were upto the satisfaction and there was no complaint either regarding work or conduct. The management has never reprimanded the workmen for their work and conduct. It is stated on behalf of the workmen that the working condicions of the management were not satisfactory as the management was not providing the minimum facilities to the workmen such as letter of appointment, leave card, medical facilities and even the minimum wages as prescribed by the Government.

It is stated that the workmen invited the wrath of the management when they demanded for these facilities, the management got annoyed and terminated the services of these workmen on 5-3-1994 without giving any notice to them or without resorting the procedure as established by law. This shows the anti-labour attitude of the management. It is stated that the termination of these workmen is nothing but is retrenchment as contemplated under Section 2(oo) of the Industrial Tribunal Act. The management has not complied with the mandatory requirements of law before terminating the services as contemplated under Section 25-f of the Industrial Disputes Act.

It is stated that the action of the management is illegal and arbitrary as the management has not followed by the procedure established under law. It is stated that the management terminated the services of the workmen in a very illegal manner as the workmen were working with the management for several years and in spite of regularising their services, they have been terminated. It is stated that the workmen are still unemployed as they have not been able to get any alternative job despite of their best efforts and they have no other source of income.

The management has filed written statement. In the written statement, it has been stated that the management has a Storage Depot for Petroleum Products situated at Shakur Basti, Delhi. The Company receives at this Depot, Motor Spirit, High Speed Diesel, LDO and Kerosene Oil. These products are stored in Tanks. Besides these, the Depot also receives Lubricants in Packs and Barrels from Budge-Budge, Calcutta and Delhi. These products are meant for onward transportation based on indents received by the Company from their dealers. In the circumstances, the management used to enter into the loading and unloading contracts. Similarly, on 24th December 1991, they entered into a contract with Mr. Gurnam Singh for such services. The contract was entered into strictly in accordance with the provisions of the Indian Contract Act, 1872 where by specific rates in respect of services rendered were mutually determined as also the terms and conditions of performance of the contract were duly stipulated. As per the contract and the schedules of rates agreed to, Mr. Gurnam Singh, Labour Contractor used to submit his bills and was paid accordingly.

It is further submitted that Mr. Gurnam Singh is an independent contractor and has been providing similar services to other transporters, such as Delhi General Freight Carriers and various firms and establishments in respect of loading and unloading of goods based strictly on schedules of rates mutually agreed. In fact, the nature of work was intermittent and not of a perpetual, perennial or regular nature *i.e.* it was not an eight-hour job on each working day; on the contrary, the loading/unloading job was based entirely on the indents as also the arrival of trucks at the Depot. In view of the above, the provisions of the Industrial Disputes Act, 1947 are wholly inapplicable as there was no employer-employee relationship between the parties.

As there was no employer-employee relationship between the management and the applicants, the assertion that the performance of the Applicants was up to the satisfaction of the management and/or that the management never reprimanded the applicants for their work and conduct is wholly misconceived and therefore, untenable. It is submitted that the management is a Public Sector Undertaking and therefore, the working conditions of the management are strictly in accordance with the law. It is reiterated that as the applicants were not employees of the company but were engaged by Mr. Gurnam Singh, contractor, the averments and assertions in the Statement of Claim are misconceived and undeniable. The issuance of Letters of appointment and Leave Cards, Medical Facilities etc., cannot and does not arise since the basic prerequisite is the relationship of employer-employee.

It is reiterated that there was no employer-employee relationship by and between the parties. Hence, applicability of the provisions of the Industrial Disputes Act are not attracted; consequently the reference to either Section 2(oo) or Section 25-F of the Industrial Disputes Act cannot and does not arise. It is reiterated the management had entered into a contract in respect of loading and unloading services at the Shakur Basti Depot. Mr. Gurnam Singh was paid as per the said contract; consequently the provisions of the Industrial Disputes Act are not applicable.

The said applicants continued to provide loading and unloading services to other firms and establishments. The present dispute has been raised with the sole purpose of alleging unemployment against the management, thereby claiming payment of back wages. However, the facts and the law clearly established that the applicant is not eligible and/or entitled to any relief whatsoever including back wages or employment.

The workmen applicants have file rejoinder. In their rejoinder they have reiterated the averments of claim and have denied most of the paras of the written statement. The management has also denied most of the paras of claim statement. Evidence of both the parties has been taken. Heard arguments from both the sides and perused the papers on records.

It was submitted from the side of the workmen applicants that they have been working with the

respondent for 10-12 years. They have not been regularised they have completed 240 days so they are entitled to get the benefit of 25-F of the Industrial Dispute Act, 1947. The management has terminated their services on 01-01-1994. This termination amounts to retrenchment as contemplated under Section 2 (o) (o) of the Industrial Dispute Act, 1947.

It was submitted from the side of the respondent that all the workmen applicants were contractors men. Shri Gurnam Singh has entered into contract of loading & unloading. According to this agreement he provided workmen to load and unload the materials as per requirement. These contractors workmen have been working with the other contractors also.

I have perused the documents on record. there is agreements between the respondent and Shri Gurnam Singh for carrying out the work of loading and unloading. The Identity Cards issued by the respondent mentions that they are contractor's labour. The workmen applicants have admitted in their cross examination that Gurnam Singh used to engage them. Cheque was issued in the name of Shri Gurnam Singh. They have no documents to prove that they were engaged by the respondent. As such in the cross-examination in evidence, the workman has accepted categorically that they worked at the instructions and under the supervision of Shri Gurnam Singh, contractor. They have also accepted that they have no proof that they have been working under the management so there is no supervision and control of the respondent over the workmen. 2002 LLR I(C) Pg. 987 and 2002 LLR Pg. 1104 are not applicable in the facts and circumstances of the case.

In 2004 LLR 351 the Hon'ble Supreme Court has laid down the criteria to decide the contractors men or the workmen of the respondent. According to this criteria supervision control and integration are the requirements for the contract of service. In the present case the workmen applicants have been doing the work of loading and unloading. It is not a perennial nature of work. There is no camouflage or subterfuge of contract in the present case. The workmen applicants cannot be said to be integrated with the respondent. They have been performing intermittent work whenever there was loading and unloading work. The laws cited by the workmen applicants are not applicable in the facts and circumstances of the case. The judgment of Hon'ble Supreme Court cited Supra is fully applicable. The workmen applicants are the contractor's men. They have got no right of regularisation.

The reference is replied thus :—

The claim by the union that Shri Kartar Singh and 17 others (as per list enclosed) are employed by M/s. I.B.P. Company Limited, Sakur Basti, Rohtak Road, Delhi is not justified and the workmen are not entitled for regularisation by the management w.e.f. dates mentioned by the union against their names with consequential benefits. The workmen applicants are not entitled to get any relief as prayed for.

The Award is given accordingly.

Dated : 09-02-2005. R.N. RAI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2005

का. आ० 1039.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार ब्लू डार्ट एयरेशन लि. के प्रबंधनत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकारण/प्रम न्यायालय, नई दिल्ली-1 के पंचाट (संदर्भ संख्या 37/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-2-2005 को प्राप्त हुआ था।

[सं. एल-11012/46/98-आ०. आर (सी. 1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 22nd February, 2005

S.O. 1039.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 37/99) of the Central Government Industrial Tribunal/Labour Court New Delhi-1, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Blue Dart Aviation Ltd., and their workman, which was received by the Central Government on 19-2-2005.

[No. L-11012/46/98-IR (C-1)]

S. S. GUPTA, Under Secy:

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT: NEW DELHI

PRESIDING OFFICER, S. S. BAL

I. D. No. 37/99

In the Matter of dispute between :

Shri Pankaj Talwar S/o Late J.L. Talwar,
Senior Security Assistant-01175,
R/o A-70, Shish Ram Park,
Uttam Nagar, New Delhi-59.

Workman

versus

Senior Station Manager,
M/s Blue Dart Aviation Ltd.
Old Cargo Road near terminal 1-A,
I.G.I. Airport (Palam), New Delhi.

Management

APPEARANCES: WORKMAN IN PERSON

Shri Rajesh Kumar for the Mgt.
alongwith Shri Arun Ahlawat, Manager
(Admn.)

AWARD

The Central Government in the Ministry of Labour vide its Order No. ALC-HQ-8(36)97 dated 22-1-99 and L-11012/46/98-IR (C-1) dated 22-1-99 has referred the following industrial dispute to this Tribunal, for adjudication :—

“Whether the action of the management of M/s. Blue Dart Aviation Ltd., New Delhi in terminating Shri Pankaj Talwar, Senior Security Asstt. w.e.f. 3-9-97 is just fair and legal, if not to what relief the concerned workman is entitled and from what date ?”

2. Reference was received and registered on 2-2-99 and case was fixed for 8-4-99 for failing claim statement. From 8-4-99 to 25-10-99 the post of P.O. was laying vacant and case was fixed for further proceeding on 23-12-99 and claim in this case was filed on 24-2-2000 and written statement was filed on 1-6-2000 and then rejoinder was also filed and case was fixed for admission denial and issues. After admission denial issues were framed on 19-7-2004 and case was fixed for evidence of the workman by way of affidavit on 4-10-04 when the workman filed his affidavit in evidence and for cross-examination of workman case was fixed for 22-12-04. On 22-12-04 again case was adjourned to 17-2-2005 for cross-examination of workman. Today the parties moved joint application stating that the parties have mutually settled the dispute in terms of memorandum of settlement dated 6-1-2005 Ex. M1 Receipt Ex. M2 and demand draft Ex. M3. Statement of the parties recorded. In view of the statement of the workman Shri Pankaj Talwar and Shri Arun Ahlawat, Manager Admn. with the Management the matter has been settled and the department has paid a sum of Rs. 1,50,000/- (Rupees one lakh fifty thousand only) to the workman in lieu of his claim vide Cheq. No./DD No. 919681 dated 5-1-2005 drawn on IDBI Bank on Mahipal Pur Branch, New Delhi, No Dispute Award is passed accordingly. File be consigned to Record Room.

Dt : 6-1-2005

S. S. BAL, Presiding Officer

नई दिल्ली, 22 फरवरी, 2005

का. आ० 1040.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधनत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकारण/प्रम न्यायालय, धनबाद-1 के पंचाट (संदर्भ संख्या 111/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-2-2005 को प्राप्त हुआ था।

[सं. एल-20012/357/95-आ०. आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 22nd February, 2005

S.O. 1040.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 111/96) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 19-2-2005.

[No. L-20012/357/95-IR(C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a Reference U/S. 10(1)(d)(2A) of I. D. Act
Reference No. 111 of 1996

Parties : Employers in relation to the management of Khudia Colliery of M/S. B.C.C. Ltd.
AND
Their Workmen.

Present :
Shri S. Prasad,
Presiding Officer.

Appearances :

For the Employers : None
For the Workmen : Sri K. Chakravarty,
Advocate
State : Jharkhand Industry : Coal.

Dated, the 25th January, 2005

AWARD

By Order No. L-20012/357/95-I.R. (Coal-I) dated 21-11-96 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-sec. (i) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the demand by the Union for revision of the date of birth of Shri Bhagat Ram, Driver and Smt. Prem Bai C/Cutter is legal and justified ? If so, to what relief are the workmen entitled ?”

2. Sri K. Chakravarty, Advocate, for the concerned workmen, by filing a petition duly signed by the concerned workmen submits that the concerned workmen do not want to contest the case and, as such, he prays to pass a ‘No Dispute’ award in this dispute.

3. In such circumstances, since there exists no dispute between the parties, I render a ‘No Dispute’ Award in the present industrial dispute.

S. PRASAD, Presiding Officer.

नई दिल्ली, 22 फरवरी, 2005

का. आ. 1041.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधनत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद-I के पंचाट (संदर्भ संख्या 20/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-2-2005 को प्राप्त हुआ था।

[सं. एल-20012/503/2001-आई.आर.(सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 22nd February, 2005

S.O. 1041.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 20/2000) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workmen, which was received by the Central Government on 19-2-2005.

[No. L-20012/503/2001-IR(C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. I, DHANBAD**

In the matter of a reference U/S. 10(1)(d)(2A) of I. D. Act.

Reference No. 20 of 2000

Parties : Employers in relation to the management of Kusunda Area of M/S. B.C.C. Ltd.
AND
Their Workmen.

Present :
Shri S. Prasad,
Presiding Officer.

Appearances :

For the Employers : Sri U.N. Lal,
Advocate
For the Workmen : None
State : Jharkhand Industry : Coal

Dated, the 25th January, 2005

AWARD

By Order No. L-20012/503/2001-IR(C-I) dated 20-2-2002 the Central Government in the Ministry of Labour has in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Dispute Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of M/S. BCCL in dismissing Sri Sadanand Bawn from the services of the company w.e.f. 21-6-2000 is fair and justified ? If not, to what relief is the concerned workman entitled ?”

2. The dispute has been settled amicably by both the parties outside the Tribunal. A memorandum of settlement has been filed duly signed by both the parties. I have gone through the terms of settlement and find that the same are fair and reasonable.

3. Accordingly, I pass an award on the basis of terms and conditions laid down in the memorandum of settlement. The memorandum of settlement shall form part of the Award.

S. PRASAD, Presiding Officer.

**MEMORANDUM OF SETTLEMENT UNDER RULE
58 OF THE ID ACT, 1947 BETWEEN R.C.M.S.
REPRESENTATING SHRI SADANAND BAWRI
EX-ELECTRICAL HELPER DHANSAR/INDUSTRY
COLLIERY AND THE MANAGEMENT OF
DHANSAR/INDUSTRY COLLIERY OF KUSUNDA
AREA, M/S. BCCL**

MANAGEMENT SIDE WORKMAN SIDE

1. Sri R. Kumar, Dy. C.P.M., Kusunda Area,	1. Sri G.D. Pandey, Vice President, RCMS
2. Sri H. Kishore, PM(R&L), Kusunda Area,	2. Sri Sadanand Bawn, Ex. Electrical helper, Dhansar/Ind. Colliery.

SHORT RECITAL OF THE CASTE:

That, Sri Sadanand Bawri, Ex-Electrical helper, Dhansar/Industry Colliery was absenting from his duty w.e.f. 28-1-2000. For this misconduct, he was charge sheeted under the provision of certified standing order by which the service conditions of Shri Bawri was governed. The issuance of charge sheet followed by domestic enquiry. In the domestic enquiry Shri Bawri found guilty. Accordingly in view of the past record of Shri Bawri and the finding of the enquiry officer, the disciplinary authority decided to dismiss Shri Bawri from the services of the Company w.e.f. 21-6-2000. Accordingly he was dismissed from the service of the Company.

In this connection, Shri G.D. Pandey, Vice President, RCMS., raised an Industrial dispute before conciliation officer. The ID ended in failure. Accordingly the matter was referred to the Ministry of Labour, Govt. of India which in turn referred this matter for adjudication before the tribunal. The matter is pending before CGIT No., I being reference no. 20/2002.

During pendency conciliation before the conciliation Officer, Sri Sadanand Bawri submitted his mercy appeal for consideration of his case of re-instatement on humanitarian ground. The appeal of Shri Bawri has been considered in this favour by the Competent Authority. Accordingly a settlement is being arrived at between the management of Kusunda Area of M/s. BCCL., and Shri G.D. Pandey, Vice President of R.C.M.S. and others of enable Shri Sadanand Bawri to be re-instated on the roll of the company at one of the unit of Kusunda Area.

TERMS OF SETTLEMENT:

Shri Sadanand Bawri, Ex-Electrical Helper, Dhansar/Industry Colliery will be reinstated on the roll of the Industry/Dhansar Colliery on following terms,

1. He is found medically fit by the Area Medical Board. He shall be examined by Area Medical Board for assessment of his physical fitness.
2. That, he has not attained the age of the superannuation.
3. Provided that Shri Sadanand Bawri submit and undertaking that he will be regular in duty in future.
4. That, it will be ascertained that P.F. and gratuity has not been withdrawn by Shri Bawri.
5. That, his identity is established in reference to the Company's records and documents.
6. That, he shall not be entitled of any wages nor he shall claim anything for the period of his dismissal and subsequent reinstatement and the period of the intervening shall be treated as dies-non. The continuity of service shall be taken for the purpose of gratuity only and no other benefit.
7. The person concerned should give an undertaking to the effect that he shall not repeat any misconduct nor indulge in any act subversive of discipline failing which he shall render himself for stern disciplinary action.
8. The person concerned shall abide by the Coal Mines Pension scheme 1993 and contribution thereof as applicable.

9. That both the parties pray that an award on the above terms shall be passed by the Tribunal.
10. The process for reinstatement of Shri Bawri should be tried to be completed within a period of one month.

FOR MANAGEMENT

1. Shri R. Kumar,
Dy. C.P.M.,
Kusunda Area,
2. Shri H. Kishore,
PM(R&L),
Kusunda Area,

WITNESS.

1. Shri P.K., Mahapatra,
P.M., Kusunda Area,

FOR WORKMAN

1. Shri G.D. Pandey,
Vice President, RCMS
2. Shri Sadanand Bawri,
Ex Electrical helper,
Dhansar/Ind. Colliery.

WITNESS.

1. Shri Manju Saw,
on Setter/Industry
&
Secretary, RCMS

Part of the Award

S. PRASAD, Presiding Officer

नई दिल्ली, 22 फरवरी, 2005

का० आ० 1042.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरपर में, केन्द्रीय सरकार द्वा रोके के लिए के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों और बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/क्रम न्यायालय धनबाद-I के पंथाट (संदर्भ संख्या 124/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-2-2005 को प्राप्त हुआ था।

[सं. एल-20012/481/99-आई. आर (सी. I)]

एस. एस. गुप्ता, अमरुद सचिव

New Delhi, the 22nd February, 2005

S.O. 1042.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 124/2000) of the Central Government Industrial Tribunal/Labour Court Dhanbad-I, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 19-2-2005.

[No. L-20012/481/99-IR.(C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1,
DHANBAD**

In the matter of reference U/s. 10(1)(d)(2A) of ID.
Act, 1947.

Reference No. 124 of 2000.

PARTIES : Employers in relation to the management of
M/s. BCCL

AND

Their Workmen

PRESENT : SHRI S. PRASAD, Presiding Officer.

APPEARANCES:

For the Employers : Shri H. Nath, Advocate.
 For the Workman : None.
 State : Jharkhand. Industry : Coal,

Dated, the 25th January, 2005.

AWARD

By Order No. L-20012/481/99-IR (C-I) dated 23-2-2000 the Central Government in the Ministry of Labour has, in exercise of the powers has conferred by clause (d) of Sub-section (1) and Sub-section (2A) of I.D. ACT, 1947, referred the following dispute to this adjudication to this Tribunal :—

“Whether the action of the management in not regularising Sri Jagdish Dusadh of Lohapatti as a Tipper Driver with proper wages is just and fair? If not to what relief the concerned workman is entitled and from what date ?”

2. Shri H. Nath, Advocate, for the management, by filing a petition duly signed by Sri B. Mahanty, Area Secretary, Bihar Colliery Kamgar Union submits that since the concerned workman has already died the sponsoring union is not interested to proceed with the case. He also prays to pass an award on the basis of the above petition.

3. In such circumstances I find that there exists no dispute between the parties. Hence, I render a ‘No Dispute’ Award in the present reference case.

S. PRASAD, Presiding Officer

नई दिल्ली, 22 फरवरी, 2005

का० आ० 1043.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद-1 के पंचाट (संदर्भ संख्या 211/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-2-2005 को प्राप्त हुआ था।

[सं. एल-20012/229/2001-आई.आर (सी. 1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 22nd February, 2005

S.O. 1043.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 211/2001) of the Central Government Industrial Tribunal/Labour Court -I Dhanbad, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 19-2-2005.

[No. L-20012/229/2001-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1,
DHANBAD**

In the matter of reference U/s. 10(1)(d)(2A) of
Industrial Disputes Act, 1947.
Reference No. 211 of 2001.

PARTIES : Employers in relation to the management of
Kusunda Area of M/S. B.C.C. Ltd.

AND

Their Workmen.

Present : Shri S. PRASAD, Presiding Officer.

APPEARANCES:

For the Employers : Shri S. N. Ghosh, Advocate.
 For the Workman : Shri B.N. Singh and
 Shri L.P. Singh, Vice President,
 Rashtriya Colliery Mazdoor
 Sangh.

State : Jharkhand. Industry : Coal,

Dated, the 25th January, 2005.

AWARD

By Order No. L-20012/229/2001-I.R. (C-I) dated 21-9-2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and Sub-section (2A) of Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :—

“Whether the action of the management of M/s. BCCL in dismissing the services of Sri Bijay Bhuiya w.e.f. 27-11-98 is fair and justified? If not to what relief is the concerned workman is entitled ?”

2. The dispute has been settled amicably by both the parties outside the Tribunal. A memorandum of settlement has been filed duly signed by both the parties. I have gone through the terms of settlement and I find that the same are fair and reasonable.

3. Accordingly, I pass an award on the basis of terms and conditions laid down in the memorandum of settlement. The memorandum of settlement shall form part of the Award.

S. PRASAD, Presiding Officer.
 2/(02)/2004/E-1.

**MEMORANDUM OF SETTLEMENT ARRIVED AT
UNDER SECTION 12(3) OF THE INDUSTRIAL
DISPUTES ACT, 1947 BETWEEN THE
MANAGEMENT OF KHAS KUSUNDA COLLIERY
UNDER KUSUNDA AREA, M/S. BCCL AND THEIR
WORKMAN REPRESENTED BY RASHTRIYA
COLLIERY MAZDOOR SANGH (INTUC) BEFORE
THE REGIONAL LABOUR COMMISSIONER
(CENTRAL), DHANBAD ON 31-3-2004.**

PARTIES TO THE SETTLEMENT:

**REPRESENTING THE
MANAGEMENT:** **REPRESENTING THE
UNION/WORKMAN :**

Dr. Harendra Kishore,
 Personnel Manager (IR),
 Kusunda Area, M/s. BCCL
 Sh. L.P. Singh,
 Vice-President,
 Rashtriya Colliery Mazdoor
 Sangh.

SHORT RECITAL OF THE CASE

Government of India, Ministry of Labour vide Order No. L-20012/229/2001/IR (C-I) dated 21-9-2001 had referred the dispute about dismissal of Sri Bijay Bhuiya, Miner/Loader of Khas Kusunda Colliery under Kusunda Area, M/s. BCCL to the CGIT No. 1, Dhanbad for adjudication and far it has not yet been adjudicated upon. Both parties to the dispute i.e. management as well as the Union requested the RLC(C), Dhanbad that fresh conciliation may be held in the said dispute as they want to settle it out of the Tribunal. Both parties were requested to attend this office on 30-3-2004 which was adjourned to 31-3-2004 and fresh C.P. were held. During the C.P. after persuasion by the RLC(C), Dhanbad both parties agreed to resolve the dispute on the following terms of settlement :

TERMS OF SETTLEMENT

It is agreed by both the parties :

- (1) That the management of Kusunda Area, M/s. BCCL, shall reinstate the workman Sri Bijay Bhuiya, Ex-Miner/Loader of Khas Kusunda Colliery, M/s. BCCL with immediate effect subject to medical fitness from Area Medical Board in the post of Miner/Loader without any back wages from the date of dismissal i.e. 27-11-1998 to the date of joining. However, this period will be counted for the purpose of continuity of service and for the purpose of payment of gratuity and pension.
- (2) The Union/workman assured the management that he will not repeat the mistake of absenteeism without following proper procedure.
- (3) The Union/workman will abide by the Coal Mines Pension Scheme, 1998 and contribution thereof as applicable.
- (4) The Union/workman agreed to submit a petition immediately before the CGIT No. 1, Dhanbad withdrawing the dispute referred vide Ministry of Labour order No. L-20012/229/2001/IR(C-I) dated 21-9-2001.
- (5) This settlement shall take effect from the date the Union/workman submit the petition for withdrawal of dispute from the CGIT No. 1.
- (6) That the Management and Union, both shall submit their implementation report to the RLC (C), Dhanbad by 30th April, 2004.

Signatory :

Representing
the management :

Sd/-

(Dr. Harendra Kishore)
Personnel Manager (IR)

Representing the
Union/workman :

Sd/-

(L.P. Singh)
Vice-President
Before me :
(A.N. MEHROTRA)
Regional Labour
Commissioner (Central)
Dhanbad.

Witnesses :

1. Sd/-

2. Sd/-

Dhanbad, dated the 31st March, 2004.

Port of the Award
S. PRASAD, Presiding Officer

नई दिल्ली, 22 फरवरी, 2005

का. आ. 1044.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.सी.एल के प्रबंधतांत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण/श्रम न्यायालय, धनबाद-II के पंचाट (संदर्भ संख्या 53/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-2-2005 को प्राप्त हुआ था।

[सं. एल-20012/139/92-आई. आर (सी. 1.)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 22nd February, 2005

S.O. 1044.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 53/93) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-II, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CCL and their workmen, which was received by the Central Government on 19-2-2005.

[No. L-20012/139/92-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT
DHANBAD

PRESENT

Shri B. Biswas, Presiding Officer.

In the matter of an Industrial Dispute U/s.
10(1)(d) of I.D. Act, 1947.

Reference No. 53 of 1993

PARTIES: Employers in relating to the management of Central Workshop of M/s. BCCL and their workmen.

APPEARANCES:

On behalf of the Workman : Mr. B. N. Singh,
Advocate.

On behalf of the Employers : Mr. B. M. Prasad,
Advocate.

State : Jharkhand Industry : Coal,

Dated, Dhanbad, the 7th February, 2005.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947, has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(139)/92-IR(C-I), dated, the 14th May, 1993.

SCHEDULE

“Whether the management of the Central Workshop of M/s. C.C.Ltd., at Barkakana is Justified in denying the benefits given to the workmen whose names are attached with C.C.L's Circular No. IR/2-131/84 dated 12-11-1984? If not, to what relief are these workmen entitled?”

2. The case of the concerned workmen according to the Written Statement submitted by the sponsoring union on their behalf in brief is as follows :—

The sponsoring union submitted that the concerned workmen having ITI certificate along with National Trade Certificate were posted at Central Workshop Barkakana as E.P. Trainee. After completion of their one year training they were absorbed and regularised in Cat. II. Thereafter the concerned workmen were promoted in Cat. IV/Grade-D on completion of 3 years of their service. They submitted that as per circular IR/2-131/83, dated 12-11-94 the concerned workmen are entitled to be promoted in Grade-D after completion of 2 years of service. They disclosed that the management of CCL implemented the above circular and appointed the workmen as per the said circular and posted them in Grade-D excepting the concerned workmen. Accordingly the concerned workmen demanded their promotion with effect from 12-11-84 but the management did not consider their demand deliberately and arbitrarily and accordingly they raised industrial dispute through their sponsoring union before the ALC (C), Hazaribagh for conciliation which ultimately resulted reference to this Tribunal for adjudication. The sponsoring union accordingly submitted prayer to pass award directing the management to issue order of promotion in favour of the concerned workmen in Grade-D w.e.f. 12-11-84 along with arrears of wages and other consequential benefits.

3. Management on the contrary after filing Written Statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the Written Statement submitted on behalf of the concerned workmen. They disclosed that the concerned workmen were initially recruited as trainees in the month of October and November, 1982 and after completion of one year training they were regularised in Cat. II in the month of October and November, 1983. During the period of their training they continued to get Cat. I wages only and they were treated as Cat. I trainees. They submitted that the recruitment of technical workers are made by selection committee after adjudging their suitability for different jobs. Their educational qualifications, technical qualifications, past experience, etc. are considered and they are selected and recruited in different categories according to individual merits of the workman. The concerned workmen were possessing ITI certificate and apprenticeship certificates issued by the National Council for Vocational Training. After adjudging their suitability the selection committee recommended their case for their appointment as Trainees in Cat. I and accordingly they were appointed as Cat. I trainee in the month of October and November, 1982. They were given appointment letters containing the terms and conditions of their employment under which it was clearly stipulated that they would work as trainees for one year and during that period they would get Cat. I wages only. After successful completion of training of one year they were to be regularised as Mazdoors Cat. II and their promotion would depend on the cadre scheme that were existing or were to be subsequently introduced from time to time. The concerned

workmen, they submitted, accepting the said terms and conditions contained in the letters of appointment joined the services of the management as Cat. I trainees and were posted at Central Workshop Barkakana. After completion of their training, their performances were adjudged and they were regularised as Mazdoor in Cat. II as per terms and conditions stipulated in the letters of employment issued to them. They submitted that management issued circular dt. 12-11-84 stipulated that the workmen having completed 2 years of experience as mazdoor in Cat. II are eligible for consideration for their promotion to different posts in Excavation Grade-D and after adjudging their suitability, the cases of workmen should be finalised according to the norms laid down in the circular. They disclosed that the concerned workmen completed two years of service in Cat. II in the year 1985 and their suitability were adjudged and they were promoted from the post of Mazdoor in Cat. II to different posts of Excavation Grade-D in the month of October and November, 1985 on which date they completed 2 years of experience as Mazdoor Cat. II. They submitted that the promotion was given to the concerned workmen abiding by the instructions given in the circular dt. 12-11-84 and accordingly they denied categorically that they committed any illegality and took any arbitrary decision in considering promotion of the concerned workmen in Gr-D as per circular dt. 12-11-84. They submitted that the claim of the concerned workmen for considering promotion from the date of their joining and not from the date of their regularisation in Cat. II finds no basis at all. Accordingly it is the prayer of the management to pass award rejecting the claim of the sponsoring union.

4. POINTS TO BE DECIDED

“Whether the management of the Central Workshop of M/s. C.C.Ltd., at Barkakana is justified in denying the benefits given to the workmen whose names are attached with C.C.L.’s Circular No. IR/2-131/84 dated 12-11-1984? If not, to what relief are these workmen entitled ?”

FINDING WITH REASONS

5. It transpires from the record that management with a view to substantiate their claim have examined two witnesses viz. MW-1 and MW-2. On the contrary the sponsoring union with a view to substantiate their claim examined one witness as WW-1. It is admitted fact that all the concerned workmen got their appointment as trainee mazdoor in Cat. I under the management and they were posted at Central Workshop, Barkakana. There is no dispute to hold that the concerned workmen possessed I.T.I. Certificate and Certificates issued by National Council for Vocational Training. The appointment letter issued in favour of WW-1 during evidence of the management was marked as Ext. M-9. It is fact that accepting the terms and conditions of the appointment letter the concerned workmen joined the management as trainee mazdoor in Cat. I. It is admitted fact that they remained in training for one year and after completion of their training they were regularised in Cat. II Mazdoor in the Excavation. The dispute in the instant reference case was cropped up thereafter relying on a circular issued by

the management bearing No. IR/2/131-84 dt. 12-11-84. The said circular during evidence of the management was marked as Ext. M-10. It is the contention of the sponsoring union that as per the said circular the concerned workmen are entitled to get their promotion in Group-D after completion of two years of their joining in the Excavation and Central Workshop. They alleged that management instead of giving promotion after completion of two years of service actually issued promotional order in favour of the concerned workmen after three years of their service. Management on the contrary submitted that the allegation of the sponsoring union at all finds no basis because of the fact that as per appointment letter they were placed as trainee in the Central Workshop for a period of one year. They completed their training as Cat. I Mazdoor in the month of October and November, 1983 and thereafter they were regularised in Cat. II Mazdoor as per terms and conditions stipulated in the letters of employment issued to them. Thereafter the concerned workmen completed two years of service in Cat. II in the year 1985 and their suitability were adjudged and they were promoted from the post of Cat. II Mazdoor to different post of excavation Grade-D in the month of October and November, 1985. Disclosing this fact the representative of the management submitted that they did not commit any illegality in considering the promotion of the concerned workmen as per circular dt. 12-11-84. Now let us consider the circular marked as Ext. M-10. The circular speaks as follows :—

“After careful examination of the aspect, it has been agreed that ITI boys who are having National Trade Certificate and have put in 2 years experience as Cat. II in Excavation and Central Workshop, Regional Workshops where excavation grades are applicable would be considered for promotion to Group-D of Excavation Cadre alongwith others subject to availability of sanctioned posts and if they are otherwise found suitable.”

It is clear from the contents of this circular that workmen having ITI Certificates and National Trade Certificates are eligible to get their promotion to Group-D if they possess 2 years experience as Cat. II in Excavation and Central Workshop/Regional Workshop subject to availability of sanctioned posts and if they are otherwise found suitable. Therefore, eligibility of getting promotion in Group-D to the workmen possessing ITI and National Trade Certificate appears to be conditional. Here in the instant case the concerned workmen have claimed their promotion in Group-D w.e.f. 12-11-84. It is admitted fact that the concerned workmen got their appointment as trainee Cat. I Mazdoor in the month of October and November, 1982. As trainee they remained in the Central Workshop for one year and after completion of training they were regularised as Cat. II Mazdoor with effect from October and November, 1983. Therefore if the claim of the concerned workmen are taken into consideration that management are liable to give them promotion in Group-D w.e.f. 12-11-84 in that case it should be considered they got their appointment as trainee in Cat. II Mazdoor. If it is so taken into consideration in that

case terms and conditions as laid down in the letter of appointment Ext. M-9 are to be ignored. It is not the case of the sponsoring union that management issued invalid letter of appointment in favour of the concerned workmen. On the contrary it transpires that abiding by the terms and conditions as laid down in the appointment letters the concerned workmen joined to their service in the month of October and November, 1982. When they joined as trainee obviously there was no existence of the circular dt. 12-11-84. Even the circular had no existence when the concerned workmen were regularised in Cat. II Mazdoor in the month of October and November, 1983. After completion of one year training. The said circular came into existence. The circular is absolutely silent if it is to be effective retrospectively. When there is no whisper to that effect implementation of this circular will come into effect on and from 12th November, 1984. As per this circular the workman having ITI and National Trade Certificate is eligible to get promotion in Group-D of Excavation Cadre after completion of their two years service in Cat. II in Excavation and Central Workshop. Therefore, precondition for getting promotion in Group-D of Excavation Cadre is that the concerned workman must complete his service in Cat. II in Excavation at Central Workshop. If this aspect is taken into consideration and if the demand of the concerned workmen are taken into consideration in that case it will expose clearly that as on 12-11-84 they got their experience as Mazdoor Cat. II in Excavation only for a period of one year. Therefore in no circumstances there is scope to say they got their eligibility to place their demand for getting promotion in Group-D Excavation Cadre as on 12-11-84. If their demand is taken into consideration in that case terms and conditions of the circular dt. 12-11-84, which the concerned workmen relied on should be ignored totally. In course of hearing sufficient opportunity was given to the sponsoring union to establish the claim of the concerned workmen by adducing cogent material evidence. But they failed to do so. I find no hesitation to say excepting the demand placed by them they failed to produce any such material evidence relying on which their claim could be supported. I find sufficient reason to hold considering all materials on record that management abiding by the circular issued on 12-11-84 released promotional order of the concerned workmen in due course of time. I have failed to find out any gross illegality in the decision of the management for giving promotion to the concerned workmen after completing 2 years of service as Cat. II in Excavation and Central Workshop. I consider that the demand of the concerned workmen is nothing but a stale demand and for which they are not entitled to get any relief. In the result, the following Award is rendered :—

“The management of the Central Workshop of M/s. C.C. Ltd., at Barkakana is justified in denying the benefits given to the workmen whose names are attached with CCL’s Circular No. IR/2-131/84 dated 12-11-84. Consequently, the concerned workmen are not entitled to get any relief.”

B. BISWAS, Presiding Officer

ANNEXURE

[No. L-20012/139/92-IR (C-I)]

Sl. No.	Name	Present Post/Cat.	Promoted as
1.	Sri A. Datta	Diesel Mech. (T) Cat.-II	Mechanic, Cat.-IV.
2.	" Laxman Ram	Motor Mech. (T) Cat.-II	Mechanic, Cat.-IV.
3.	" Albert Kajur	Mech. Fitter (T) Cat.-II	Mech. Fitter, Cat.-IV.
4.	" R.P. Gupta	Welder (T) Cat.-II	Welder, Cat.-V.
5.	" Bhim Moohi	Electrician (T) Cat.-II	Blacksmith, Cat.-IV.
6.	" Rajdeo Prasad	Electrician (T) Cat.-II	Elect. Fitter, Cat.-IV.
7.	" Shankers	Electrician (T) Cat.-II	Elect. Fitter, Cat.-IV.
8.	" Singh	Electrician (T) Cat.-II	Elect. Fitter, Cat.-IV.
9.	" Phool	Electrician (T) Cat.-II	Elect. Fitter, Cat.-IV.

नई दिल्ली, 22 फरवरी, 2005

का० आ० 1045.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारा/त्रम न्यायालय, धनबाद-II के पंचाट (संदर्भ संख्या 65/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-2-2005 को प्राप्त हुआ था।

[सं. एल-20012/443/94-आईआर (सी-I)]

एस० एस० गुप्ता, अवर सचिव

New Delhi, the 22nd February, 2005

S.O. 1045.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 65/97) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workmen, which was received by the Central Government on 19-2-2005.

[No. L-20012/443/94-IR(C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT
DHANBAD

PRESENT:

Shri B. Biswas, Presiding Officer.

In the matter of an Industrial Dispute under Section
10(1)(d) of I. D. Act, 1947

Reference No. 65 of 1997

Parties : Employers in relation to the management of Bhuli Township Administration of M/s. BCCL and their workmen

Appearances :

On behalf of the Workman : None

On behalf of the Employers : None

State : Jharkhand. Industry : Coal

Dated, Dhanbad, the 4th February, 2005.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947, has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/443/94-IR(C-I), dated, the 26th May, 1997.

SCHEDULE

“Whether the claim of the Union that S/Shri Naresh Paswan, Debanand Choudhary, Rajnish Kumar, Prabhakar Tiwari, Sewa Ram, Sheo Kumar, Kanhaiya, Ramesh Kumar, Durganand, Indra Kant, Badri Nath, Bishwa Nath, Ram Pyare Ram, Lallan Pandey, Sunil Kumar, Sushil Kr. Singh, Nathuni Pandey, Ram Kumar Pandey, Ramkant Dubey, Uday Kumar Singh and Amit Kumar Paswan were watching, repairing and maintenance of Hand Pumps at Bhuli Township by the management of M/s. BCCL is correct and justified ? If so, whether the demand for regularisation of these workmen by the Union is legal and justified ? And if so, to what relief are these workmen entitled ?”

2. The case of the concerned workmen according to written statement submitted by the sponsoring Union on his behalf in brief is as follows :

The sponsoring Union submitted that the concerned workmen were engaged by the management at Bhuli Township for performing the job of watering, repairing and maintenance of hand pumps installed in A, B, C&D blocks and in that capacity he started working since 1983. They submitted that the nature of job which the concerned workmen used to perform was continuous and permanent in nature and he used to work under direct control and supervision of the management.

They alleged that to deprive the concerned workmen of their legitimate wages management used to disburse wages in the name of different intermediaries at different periods below the rates of N.C.W.A. Accordingly, concerned workmen time to time submitted representations to the management with prayer for their regularisation and payment of wages as per N.C.W.A. but the management did not take any step. On the contrary they stopped the concerned workmen from service illegally, arbitrarily and violating the principle of natural justice. As a result they through sponsoring Union raised Industrial Dispute before A.L.C.(C) for conciliation which ultimately resulted reference to this Tribunal for adjudication.

The sponsoring Union accordingly submitted prayer to pass award directing the management to reinstate the concerned workmen in service and also to regularise them with full back wages.

3. The Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring Union asserted in their written statement :—

They submitted that no employer and employee relationship ever existed between the management and the concerned workmen. They categorically denied engagement of the concerned persons by the management of M/s BCCL for watering, repairing and maintenance of hand pumps at Bhuli Township at any point of time. They submitted that the demand made by the sponsoring union is speculative for induction of strangers into the employment of the company through litigation. They submitted that before the conciliation officer though they placed their claim to work under the management of Bhuli Township from 1983 to 1987 failed to produce a single paper in support of their claim. Accordingly management submitted prayer to pass order rejecting the claims of the sponsoring Union.

POINTS TO BE DECIDED

4. "Whether the claim of the Union that S/ Shri Naresh Paswan, Debanand Choudhary, Rajnish Kumar, Prabhaker Tiwari, Sewa Ram, Sheo Kumar, Kanhaiya, Ramesh Kumar Durganand, Indra Knat, Badri Nath, Bishwa Nath, Ram Pyare Ram, Lallan Pandey, Sunil Kumar Singh, Nathuni Pandey, Ram Kumar Pandey, Ramkanti Dubey, Uday Kumar Singh and Amit Kumar Paswan were engaged for watching, repairing and maintenance of Hand Pumps at Bhuli Township by the management of M/s. BCCL is correct and justified ? If so, whether the demand for regularisation of these workmen by the Union is legal and justified ? And if so, to what relief are these workmen entitled ?"

5. FINDING WITH REASONS

It transpires from the record that in spite of getting ample opportunities the sponsoring Union with a view to substantiate their claim did not consider necessary to adduce any evidence. No evidence also was adduced by the management. Accordingly, in view of the facts disclosed in the pleadings of both sides let me consider if the claim of the sponsoring Union stands on cogent footing or not.

It is specific claim of the sponsoring Union that the concerned workmen were engaged by the management at Bhuli Township for performing the job of watching, repairing and maintenance of hand pumps installed at Block No. A, B, C & D. They submitted that the jobs which the concerned workmen used to perform under direct supervision and control of the management were permanent in nature not only but also they were engaged in that capacity. Continuously for years together. They alleged that in spite of performing duties continuously, management used to pay their wages through intermediaries far below the rate of N.C.W.A. They alleged

that when the concerned workmen raised their voice for regularisation and submitted representation to that effect, the management illegally, arbitrarily and violating to the principle of natural justice stopped them from their service.

Management after filing written statement categorically denied the fact about engagement of the concerned workmen at Bhuli Township for the purpose of performing the jobs of watching, repairing and maintenance of handpumps. They categorically submitted that no employer and employee relationship ever grew up between them and the concerned persons.

Therefore, considering the facts disclosed in the pleading of both sides it is to be looked into whether the concerned workmen ever engaged by the management for performing the jobs of watching, repairing and maintenance of hand pump sat Bhuli Township and also if the management used to pay their wages through intermediaries below the rate of NCWA.

It is really curious to note that the sponsoring Union in course of hearing have failed to produce a single scrap of paper in support of their claim that the concerned workmen were engaged for the works as mentioned above. Neither the letter of appointments nor the identity cards which could be considered as important documents were produced on their part at the time hearing. It is the specific claim of the sponsoring Union that management used to pay wages to the intermediaries for its disbursement to the concerned workmen. It was bounden obligation of the sponsoring Union to disclose the name of the intermediaries through whom the management used to pay wages to the concerned workmen for the jobs performed by them. It is really astonishing to note that inspite of claiming so the sponsoring union have failed to divulge the name of single intermediary from whom the concerned workmen used to draw their wages. Even they did not consider necessary to produce a single wage sheet to show that the concerned workmen received wages from any intermediary.

It is the contention of the sponsoring Union that the concerned workmen time to time submitted representation to the management with prayer for their regularisation in service.

Question of regularisation of a workman comes in if it is established that management refused to take any such step inspite of his rendering continuous service. No. incriminating material is forthcoming before this Tribunal to establish the genuinity of the claim of the concerned workman. They even did not consider necessary to submit any copy of the representation the original of which they submitted to the management for their regularisation.

It transpires that excepting the claim placed in the written statement, the sponsoring Union have failed to produce a single scrap of paper to show that being engaged by the management they worked at Bhuli Township continuously for years together.

It is to be borne into mind that facts disclosed with pleading can not be considered as substantive piece of

evidence in support of the claim of the concerned workman until and unless the same are substantiated by cogent evidence. Here in the instant case initial onus was absolutely on the sponsoring Union to substantiate their claim but I find no hesitation to say that the sponsoring Union have lamentably failed to establish their claim. Accordingly, just relying on the facts disclosed in the pleading of the sponsoring Union I find no scope to uphold their contention.

As the sponsoring Union have lamentably failed to substantiate their claim the concerned workmen are not entitled to get any relief.

In the result the following award is rendered :

"The claim of the Union that S/Shri Naresh Paswan and twenty others (given below) were the employees of the management of M/s. BCCL in Bhuli Township administration and regularisation of their services are not correct and justified. Consequently, the concerned workmen are not entitled to get any relief."

1. Shri Debanand Choudhary
2. Shri Rajnish Kumar
3. Shri Prabhakar Tiwari
4. Shri Sewa Ram
5. Shri Sheo Kumar
6. Shri Kanhaiya
7. Shri Ramesh Kumar
8. Shri Durganand
9. Shri Indra Kant
10. Shri Badri Nath
11. Shri Bishwa Nath
12. Shri Ram Pyare Ram
13. Shri Lallan Pandey
14. Shri Sunil Kumar
15. Shri Sushil Kr. Singh
16. Shri Nathuni Pandey
17. Shri Ram Kumar Pandey
18. Shri Ramkant Dubey
19. Shri Uday Kr. Singh
20. Shri Amit Kumar Paswan.

B. BISWAS, Presiding Officer

नई दिल्ली, 22 फरवरी, 2005

का. आ. 1046.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि., के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद-II के पंचाट (संदर्भ संख्या 271/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-2-2005 को प्राप्त हुआ था।

[सं. एल-20012/318/2001-आई. आर (सी. 1)]

एस.एस.गुप्ता, अवर सचिव

New Delhi, the 22nd February, 2005

S.O.1046.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 271/2001) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-II, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workmen, which was received by the Central Government on 19-2-2005.

[No. L-20012/318/2001-(R (C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD.

PRESENT : SHRI B. BISWAS . Presiding Officer
In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947
Reference No. 271 of 2001

PARTIES:

Employers in relation to the management of M/s.BCCL and their workmen.

Appearances:

On behalf of the workman	: None
On behalf of the employers	: None
State	: Jharkhand
Industry	: Coal.

Dated, Dhanbad, the 2nd February, 2005.

AWARD

The Government of India Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/318/2001-(C-I) dated 24th September, 2001.

SCHEDULE

"Whether the demand of the union for regularisation of Sri Subodh Kumar Sharma as Electrician, Category-V with arrears of wages is proper and Justified? If so, to what relief is the concerned workman entitled and from what date?"

2. In this reference neither the concerned workman nor his representative appeared. None also appeared on behalf of the management. Record shows that consecutive notices were issued to the workmen inside but inspite of issuance of notices they failed to turn up before this Tribunal. Gesture of the workman it is taken into consideration will expose clearly that they are not interested to proceed with the hearing of this case. Under the circumstances, this Tribunal also finds no ground to adjourn the case suo moto for days together only for causing appearance of the workman. Hence, the case is closed. Accordingly a "No dispute" Award is passed in this reference presuming non-existence of any industrial dispute between the parties.

B. BISWAS, Presiding Officer.

नई दिल्ली, 22 फरवरी, 2005

का.आ. 1047.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय, धनबाद-II के पंचाट (संदर्भ संख्या 112/2003 को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-2-2005 को प्राप्त हुआ था।

[सं. एल-20012/154/2003-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 22nd February, 2005

S.O. 1047.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 112/2003) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 19-2-2005.

[No. L-20012/154/2003-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

SHRI B. BISWAS, Presiding Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 112 OF 2003

Parties :

Employers in relation to the management
of Jeenagora Colliery of M/s. BCCL and
their workman

APPEARANCES:

on behalf of the workman : None

on behalf of the employers : Mr. D. K. Verma
Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 2nd February, 2005

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/154/2003-IR(C-1), dated the 10th November, 2003.

SCHEDULE

“Whether the action of the management of BCCL Jeenagora Colliery in dismissing Shri Chandrika Bhuiya from service w.e.f. 7-9-02 is justified? If not, to what relief the workman is entitled?”

2. In this case neither the concerned workman nor his representative appeared. However, management

appeared through their Ld. Advocate Mr. D. K. Verma. Record shows in spite of issuance of consecutive notices the workman side did not consider necessary to file Written Statement on their behalf though only on one occasion they appeared through their authorised representative. Gesture of the workman/sponsoring union if is taken into consideration will expose clearly that they are not interested to proceed with the hearing of this case. This Tribunal also finds no ground to adjourn the case *suo moto* for days together for taking steps by the workman. Hence, the case is closed, and accordingly a ‘No dispute’ Award is passed in this reference presuming non-existence of any industrial dispute between the parties.

B. BISWAS, Presiding Officer

नई दिल्ली, 22 फरवरी, 2005

का.आ. 1048.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय, धनबाद-II के पंचाट (संदर्भ संख्या 164/2000 को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-2-2005 को प्राप्त हुआ था।

[सं. एल-20012/183/2000-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 22nd February, 2005

S.O. 1048.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 164/2000) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 19-2-2005.

[No. L-20012/183/2000-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

SHRI B. BISWAS, Presiding Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 164 OF 2000

Parties :

Employers in relation to the management
of M/s. BCCL and their workman.

APPEARANCES:

on behalf of the employers : Mr. D. K. Verma,
Advocate.

on behalf of the workman : Mr. K. K. Ojha,
The concerned workman

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 2nd February, 2005.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/183/2003-(C-I), dated, the 18th October, 2000.

SCHEDULE

“Whether the action of the management in not sending Shri K.K. Ojha to the Apex Medical Board for the assessment of his age is justified proper? If not, to what relief, is the concerned workman entitled?”

2. In this case both the parties appeared and filed their respective Written Statement. Subsequently, in course of hearing the concerned workman by filing a petition submitted to pass a ‘No dispute’ Award in this case as he is not willing to proceed with the hearing. During interrogation the concerned workman submitted that the dispute as per reference has already been settled out of his own accord and for which he is not interested to proceed with the case. In view of the submission made by the concerned workman Ld. Advocate for the management submitted that as the concerned workman is not interested to proceed with the hearing of this case a ‘No dispute’ Award may be passed. Heard both sides. Since the concerned workman himself is not interested to proceed with the hearing of this case, there is no reason to drag on the case *suo moto*. Under the circumstances, a ‘No dispute’ Award is passed presuming non-existence of any industrial dispute between the parties.

B. BISWAS, Presiding Officer.

नई दिल्ली, 22 फरवरी, 2005

का.आ. 1049.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय धनबाद-II के पंचाट (संदर्भ संख्या 36/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-2-2005 को प्राप्त हुआ था।

[सं. एल-20012/765/97-आई आर (सी-1)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 22nd February, 2005

S.O. 1049.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 36/99) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 19-2-2005.

[No. L-20012/765/97-IR (C-1)]

S.S. GUPTA, Under Secy..

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD PRESENT:

SHRI B. BISWAS, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 36 OF 1999

Parties : Employers in relation to the management of M/s. BCCL and their workman.

APPEARANCES:

on behalf of the workman : None

on behalf of the employers : Mr. D. K. Verma,
Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 27th January, 2005

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/765/97-IR(C-1), dated, the 18th January, 1999.

SCHEDULE

“Whether the action of the management of Loyabad Power House under Sijua Area of M/s. BCCL in stopping from work to Sh. Rajendra Das, ex-employee of Loyabad Power House is legal and justified? If not, to what relief the concerned workman is entitled?”

2. In course of hearing of the instant reference management filed a petition on maintainability point. The management in the petition disclosed that they are not the owner of Loyabad Power House as it is still an unit under Bihar State Electricity Board. They submitted that Loyabad Power House was previously owned as Sijua Jharia Electricity Supply Co. Belonging to Bihar State Electricity Board. As such, the management submitted that industrial dispute which the concerned workmen raised is not maintainable in the eye of law considering the fact that no employer employee relationship ever grew up between him and the management. They submitted that as Bihar State Electricity Board is the sole owner of Loyabad Power House the concerned workman if requires may agitate his grievance before the appropriate forum against Bihar State Electricity Board with a view to get his relief. No Written objection was filed on behalf of the concerned workman.

At the time of hearing none appeared on behalf of the concerned workman. Heard Ld. Advocate for the management. Perused the order passed by the Hon'ble High Court Jharkhand in connection with C.W.J.C. No. 3486 of 1993 (R) In the said decision Their Lordships quashed the Award passed by the Ld. CGIT No. 1, Dhanbad in connection with Ref. No. 27/83. From the said decision it transpires that as on date the ownership of Loyabad Power House was not transferred in favour of the petition/management. Perused also the memorandum of handing over of Loyabad Power House and other assets of Bihar State Electricity Board by the management on

1-4-92. This memorandum has exposed clearly that Bihar State Electricity Board is the absolute owner of Loyaband power House. Therefore, the Industrial dispute which the concerned workman raised in the instant case relates to Bihar State Electricity Board and the management do not have any responsibility to answer the dispute. I, therefore, hold that the instant case is not maintainable in the eye of law as it is not an industrial dispute covered under I.D. Act., 1947 for its adjudication by this Tribunal. The concerned workman/sponsoring union is at liberty to raise Industrial Dispute before the appropriate forum.

The reference is disposed of accordingly.

B. BISWAS, Presiding Officer.

नई दिल्ली, 22 फरवरी, 2005

का.आ. 1050.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि.के प्रबंधनतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय धनबाद-II के पंचाट (संदर्भ संख्या 197/2000 को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-2-2005 को प्राप्त हुआ था।

[सं० एल-20012/159/2001-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 22nd February, 2005

S.O. 1050.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 197/2000) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 19-2-2005.

[No. L-20012/159/2001-IR (C-1)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

SHRI B. BISWAS, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 197 OF 2001

Parties: Employers in relation to the management of Bhart Coking Coal Ltd. and their workman.

APPEARANCES:

On behalf of the workman : Mr. P. R. Shukla,
Auth. Representative.

On behalf of the employers : None.

State : Jharkhand Industry : Coal.

Dated, Dhanbad, the 24th January, 2004

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act., 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/159/2001-IR (C-1), dated, the 10th July, 2001.

SCHEDULE

“Whether the demand of the Bihar Colliery Kamgar Union from the management of M/s. BCCL for extending Interim relief to S/Sri Ram Mahato, Suleman Mia, Lazmi Narayan Tiwari, Kalicharan Mondal and Govind Pd. Sah as extended to other employees of D & F Ropeways is justified ? If so, to what relief are the concerned workman entitled ?”

2. The case of the concerned workmen according to Written Statement submitted by the sponsoring Union in brief is as follows :—

The sponsoring Union submitted that the concerned workmen are the permanent employees of Civil Engineering Deptt. under BCCL at Koyala Nagar, Dhanbad and presently engaged as pump operators. They disclosed that before absorption under the present management the concerned workmen were employees under Coal Board. Due to enactment of Coal Mines (Conservation XXX & Development) Act, 1974 the said coal Board was abolished w.e.f. 1-4-75. Consequent upon the abolition of the erstwhile Coal Board, the officers and other employees of the said Board were transferred to different subsidiaries of Coal India Ltd., on their existing pay and other terms and conditions regarding pensions, gratuity and other matters as would have been admissible to them had the Coal Board not abolished. They disclosed that after merger of the employees with different subsidiary companies on 1-4-75, Coal India Ltd., in consultation with its subsidiary companies decided replacement terms and conditions of service as well as the replacement of pay scales applicable to the workmen under Coal India Ltd. doing same and similar nature of job. The said replacement terms and conditions of service as well as the pay scales were offered to all employees of the ex Coal Board with option either to come over to replacement scales with terms and conditions of service of CIL or to retain the same terms and condition of service and pay scale of C.P.C. as applicable to them in Coal Board. They submitted that in view of the said decisions majority of the workmen under BCCL opted for replacement of terms and conditions of service and pay scales as offered by that authority. However, Ropeways employees of J & K Ropeways under Eastern Coalfields did not opt for the replacement terms and conditions and pay scale offered to them. On the contrary they through their union raised protest against the time rated scales offered to them taking the ground that the same will adversely affect their service condition as they are enjoying C.P.C. monthly pay scales under Coal Board. Thereafter the Eastern Coal Board Ltd. ultimately replaced the time rated scales offered to them by monthly scale. As a result resentment created amongst the Ropeways employees of D & F Ropeways under B.C.C.L. Management and for which an Industrial Dispute was raised for conciliation which ultimately resulted reference to CGIT No. 1, Dhanbad and

the said reference case was registered as Ref. Case No. 38/80 CGIT No. I passed award in favour of D & F Ropeways employees with the observations that they are entitled to get similar benefit as that of J & K Ropeways employees in view of settlement entered into between the parties. They submitted that against Award the management preferred a Writ petition before the Hon'ble High Court Patna (Ranchi Bench) which was registered as C.W.J.C. No. 1228 of 1982 (R). Hon'ble Court after hearing both sides held that without prejudice to the right of the parties and subject to final order the management shall pay to each of the workman Rs. 100/- P.M. from the month of January, 1983. Against that order management went for further appeal before the Hon'ble Court which was dismissed. Thereafter management again preferred appeal to Hon'ble Apex Court which too was dismissed. Thereafter management again preferred appeal to Hon'ble Apex Court being Civil Appeal No. 687/2000 where the management also did not get any relief. They further admitted that further appeal with the Hon'ble High Court is still pending.

They submitted that the employees under the schedule are the employees appointed by ex-coal Board against the permanent requirement of the Ropeways (D & F) Ropeways then having its Headquarter at Dhanbad. They were appointed as helper attendant but in the public interest were retained at the Headquarter office at Dhanbad for supply of water for domestic consumption in two colonies at Seraidhella and Hirapur, besides a separate bungalow owned by Ex. Coal Board. Accordingly these workmen after abolition of Coal Board were attached to Civil Engineering Department of the company as pump operator.

These concerned workmen were offered in replacement on daily rated scales on the basis of job, they are doing at the time of take over of Ex. Coal Board on 1-4-75.

They submitted that the instant industrial dispute cropped for the reasons the replacement scales offered to the Ex-Coal Board employees which was derogatory to their interest. As a result the employees of J & K Ropeways under ECL over the said daily rated scales started agitation and for which management of E.C.L. accepted monthly rate of scale as existed in the Ex. Coal Board on the same pattern the employees of D & F Ropeways have also been awarded the replacement of monthly scales but for an appeal with the Hon'ble High Court, Ranchi, the employees have been allowed interim relief @ Rs. 100/- P. M. as per order of the Hon'ble Court.

They disclosed that as the concerned workmen originally were employees of Ex. Coal Board they relying on the order of the Hon'ble High Court appealed to the management for replacement of monthly scales but in view of the pendency of final hearing of the appeal they made their further appeal to the management to grant interim relief as admissible to other employees of D & F Ropeways. They submitted that the above demand is based on an agreement arrived at between BCCL and the workmen represented by B.C.K.U. before the ALC(C), Dhanbad on 8-5-81. Relying on the same principle they submitted that the concerned workmen are equally entitled to get the same relief. Hence this case.

3. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring Union asserted in their Written statement.

They submitted that the concerned workmen were aware of the development of Ref. Case No. 30/80 and therefore, it was incumbent upon them to get themselves joined as parties with a view to agitate their claim but they instead of doing so kept themselves silent. They further submitted that NCWA is a settlement within the meaning of Section 2(P) of the I.D. Act and the concerned workmen having opted for being guided under the conditions of the NCWA are bound by the conditions of the said NCWA and after having derived benefit of such settlement in the shape of NCWA are not permitted to raise the dispute of like nature and for which the reference which has been made is not maintainable in the eye of law. They further submitted that the dispute raised by D & F Ropeways employees is based on different aspect and for which there is no scope to equate the claim of the concerned workmen with that of their claims as per reference in case No 30/80. In the circumstances management submitted that the concerned workmen are not entitled to get any relief in view of their prayer.

4. POINTS TO BE DECIDED

“Whether the demand of the Bihar Colliery Kamgar Union from the management of M/s. BCCL for extending interim relief to S/Sri Ram Mahato, Suleman Mia, Laxmi Narayan Tiwari, Kalicharan Mondal and Govind Pd. Sah as extended to other employees of D&F Ropeways is justified If so, to what relief are the concerned workmen entitled?”

5. FINDINGS WITH REASONS

It transpires from the record that the sponsoring union with a view to substantiate their claim examined one of the concerned workman as WW-1. Management on the contrary in course of final hearing neither appeared nor took any step to adduce any evidence. Accordingly, the case was heard *ex parte*.

Considering the facts disclosed in the pleadings of Both sides, evidence of WW-1 and other material documents I find no dispute to hold that the concerned workman originally were the workmen of Coal Board. It is admitted fact that after enactment of Coal Mines (Conservation XXX and Development) Act., 1974 the said Coal Board was abolished w.e.f. 1-4-75. As a result all the officers and employees of Coal Board were transferred to different subsidiary organisation of Coal India Ltd. depending upon the jurisdiction of the companies. As per Written Statement it has been admitted by the sponsoring Union that after merger of the employees with different subsidiary companies w.e.f. 1-4-75, Coal India Ltd. in consultation with all its subsidiary companies decided replacement terms and conditions of service as well as the replacement pay scales applicable to the workmen under Coal India Ltd. doing same or similar nature of job. The said replacement terms and conditions of service as well as the pay scales were offered to all the employees of the ex-coal Board with options either to come over to replacement

scales with terms and conditions of service of CIL or to retain the same terms and conditions of service and Pay scale of C.P.C. as applicable to them in Coal Board.

The terms and conditions of service in Coal India Ltd. in replacement of existing terms and conditions of Service of erstwhile Coal Board employees during evidence of W-1 was marked as Ext. W-2, WW-1 during his evidence disclosed that he got his appointment as Helper on 23-9-74 under Coal Board. As a result of abolition of Coal Board w.e.f. 1-4-75, he was transferred to BCCL and the said order of transfer during his evidence was marked as Ext. W-1. This witness during his evidence disclosed that thereafter management issued him the terms and conditions of employment which he accepted duly. Ext. W-3 i.e. order relating to fixation of pay was issued by the management in favour of the concerned workman with effect from 1-4-75. After the option given by him was accepted and as per the terms and conditions his pay was fixed in the NCWA scale. It is therefore clear that the concerned workman instead of opting his old scale of pay opted the scale of pay offered by the present management, when his service was placed there after closure of Coal Board on implementation of Coal Mines (Conservation XXX and Development) Act, 1974.

It is admitted fact that the concerned workman under Coal Board got his appointment as Helper on 23-9-74. Coal Board was abolished w.e.f. 1-4-75 i.e. within one year of his getting appointment he was absorbed under the present management and the same post was provided to him. It is the contention of the sponsoring Union that the concerned workmen were not employees of Coal Board against the permanent requirement of the Ropeways (D & F). After absorption though they got their appointment as helper/attendant but for public interest they were retained at the Headquarter at Dhanbad for supply of water for domestic consumption in two colonies at Seraihella and Hirapur and now they are working as pump operators under Civil Engineering Deptt. During hearing the sponsoring Union have failed to produce a single scrap of paper to show that the concerned workmen got their appointment as Helper under Ropeways (D & F). Therefore, there is little to uphold such contention.

It is the further contention of the sponsoring Union that when the management of ECL absorbed Ropeways employees under (J & K) and offered with daily rated scale they started agitation and for which the management of ECL entered into a settlement with those employees and by virtue of that settlement agreed to provide monthly rated scales to them. They disclosed that on the same pattern monthly scale of pay in placement of daily rated scale was agreed to be paid to them as per settlement. They alleged that as subsequently present management refused to implement the said monthly scale to the Ropeways employees (D & F) they raised in Industrial Dispute and a reference case being Ref. Case No. 30/80 was initiated before CGIT No. 1, Dhanbad. The subject matter of the said reference was as follows :

“Keeping in the view the scales of pay and other benefits given by Messrs. Eastern Coalfields Limited, Sanatoria, District Burdwan (West Bengal) to the

workmen of J & K Ropeways of former Coal Board, whether the demand of the workmen of Messrs Bharat Coking Coal Limited for extension of Similar benefits to the workmen of D & F Ropeways which was merged with BCCL is justified? If so, to what relief are the said workmen entitled?”

As per reference it was taken into considerations if the demand of the Ropeways employees (D & F) which was merged with the present management was justified or not. It is the contention of the sponsoring Union that after merger of the employees with different subsidiary companies w.e.f. 1-4-75 Coal India Ltd. in consultation with all its subsidiary Companies decided replacement terms and conditions of service as well as the replacement pay scale applicable to the workmen under Coal India Ltd., doing same and similar nature of job. It is admitted fact that nature of job which the Ropeways employees (J & K) used to perform are similar in nature of job performed by the Ropeway employees (D & F). Inspite of this fact these Ropeways employees (D & F) were deprived of getting the pay scale benefit as that of the Ropeways employees (J & K) and for which they started agitation and as a result of the outcome of the same present management and after entering into an agreement agreed to give similar benefit to them as that of the Ropeways employees (J & K) under ECL. Inspite of entering into that settlement as the management did not implement the terms and condition of the settlement the sponsoring Union on behalf of these employees raised Industrial Dispute. Lt. Presiding Officer CGIT. No. 1, Dhanbad after considering the said settlement and also hearing both sides passed award with the observation as follows :—

“For the reasons given above I hold that in view of the scale of pay and other benefits given by M/s. E.C.L. to the workmen of J & K Ropeways of former Coal Board the demand of the workmen of M/s. BCCL for extension of similar benefit to the workmen of D & F Ropeways which merged with M/s. BCCL is justified. The workmen of D & F Ropeways, therefore, are entitled to the same benefits and scale of pay as provided in Ext. W-4 read with Ext. W-13. The reference is answered accordingly. In the circumstance is will be no order for costs.”

The settlement and the award during hearing of this case were marked as Ext. 4 & 5 respectively. The management against that award preferred a Writ petition before Hon'ble High Court, Patna (Ranchi Bench) which was registered as CWJC No. 1228 of 1982 (R). It has been disclosed by the sponsoring Union that Hon'ble Court pending final order directed the management to pay to the workmen @ Rs. 100/- P.M. over and above the wages they are getting. The management again preferred an appeal under LAP No. 22 of 1990(A) which was also dismissed. Thereafter further they preferred Civil Appeal No. 687/2000 before the Hon'ble Apex Court. Hon'ble Apex Court after hearing directed the management to implement the award of 1982. They further directed that the Writ petition preferred by the management and registered as C.W.J.C. No. 863/97 was also dismissed. Considering the submission of the sponsoring Union it is not clear if the Award has been fully implemented or not.

However, considering the facts and circumstances discussed above it is clear that the employees, Ropeways employees D & F raised the dispute as the management not only ignored to give relief to them knowing fully well that nature of job which they performed were similar to that of the Ropeways employees of J & K under E.C.L. but also ignored to implement the settlement entered into with the workers.

Here in the instant case the sponsoring Union have failed to expose that workmen of other subsidiary companies under designation of helper/attendant are getting them monthly pay scale whereas the concerned workmen inspite of rendering similar service are getting daily rated scale. They have also failed to establish that the nature of job which the concerned workmen performed are similar to that of the job performed by Ropeways employees of D & F. There is no evidence also to show that management if entered into any settlement with the concerned workmen for invoking monthly scale like that of the Ropeways employees of D & F.

NCWA is a bipartite settlement enters into between the management and the union in the matter of implementation of wage benefit and consequential relief to the workmen. Though such settlement is not recognised statutorily, it has its binding force as per provision of the Industrial Disputes Act. It is clear considering my discussion above that the concerned workmen were absorbed under the management after abolition of Coal Board. Thereafter, replacement terms and conditions including wage structure as per nature of job was formulated for acceptance by the workers keeping option that the workers would be allowed to retain in the present scale and other benefit if newly formulated wage structure as per NCWA and other benefit are not acceptable to them. Therefore, it is evident that there was no binding upon any worker to accept the new wage structure formulated in consultation with different subsidiary companies under CIL. Evidence of WW-1 if looked into will expose clearly that management issued the terms and conditions of employment to the concerned workmen. It is admitted that they accepted the same and on the basis of that acceptance not only their designation but also their scale of pay was fixed. In the instant case the sponsoring Union raised Industrial Dispute during 2001 with demand for interim relief to them as extended to other employees of D & F Ropeways. This reference speaks clearly that the dispute raised by D & F Ropeways employees is still pending for disposal. Had that not been so the sponsoring Union would not raise industrial dispute with claim for interim relief only. No satisfactory explanation is forthcoming on the part of the sponsoring union why they did not consider to add themselves as necessary parties when the matter was pending before the Hon'ble Court. It is to be established that the concerned workmen rendering similar nature of job like that of D & F Ropeways employees. No doubt they have failed to establish such fact. On the contrary not only they have accepted the terms and conditions of employment but also accepted the scale of pay offered to them as per N.C.W.A. and in this way they enjoyed the privileges for years together. The nature of work which

they perform have no similarity with that of the nature of job performed by D & F Ropeways employees. Accordingly, there is no scope to draw conclusion that they are very much eligible to get interim relief. Moreover, the said interim relief was granted by the Hon'ble Court pending passing of final order. As the matter in issue is still pending before the Hon'ble High Court for final order, I do not have any scope at all to consider such prayer of the sponsoring Union apart from my observation made above.

In the result, the following Award is rendered :—

“The demand of the Bihar Colliery Kamgar Union from the management of M/s. BCCL for extending Interim Relief to S/Sri Ramhato, Suleman Mian, Laxmi Narayan Tiwari, Kalicharan Mondal and Govind Pd. Sah as extended to other employees of D & F Ropeways is not justified. Consequently, the concerned workmen are not entitled to get any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 22 फरवरी, 2005

का.आ. 1051.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धरा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि.के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अमन्यायालय, धनबाद-II के पंचाट (संदर्भ संख्या 155/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-2-2005 को प्राप्त हुआ था।

[सं. एल-20012/208/2000-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 22nd February, 2005

S.O. 1051.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 155/2000) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 19-2-2005.

[No. L-20012/208/2000-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

SHRI B. BISWAS, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 155 of 2000

PARTIES : Employers in relation to the management of M/s. BCCL and their workman.

APPEARANCES:

On behalf of the workman : Mr. N.G. Arun,
Authorised Representative, RCMS Union.

On behalf of the employers : None.

State : Jharkhand Industry : Coal.

Dhanbad, the 20th January, 2005

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/208/2000-(C-1), dated, the 18th October, 2000.

SCHEDULE

“Whether the demand of the union for regularisation of Sri Jagdish Prasad Mahato, Category-II Mazdoor to the post of Cap Lamp Issue Clerk is proper and justified ? If so, to what relief is the concerned workman entitled and from what date ?”

2. The case of the concerned workman according to Written Statement submitted by the sponsoring Union on his behalf in brief is as follows :—

They submitted that the concerned workman initially got his appointment under the management as time rated mazdoor in Cat. II. Thereafter, management for their own interest vide office Order No. LAB/684 dt. 5-6-92 authorised him to work as Cap Lamp Issue Clerk in clerical Grade. III. They disclosed that Dy. CME/Agent of Bhagaband Colliery issued that authorisation letter with the approval of G.M. P.B Area as communicated by Dy. CPM, PB Area vide his letter No. F-ESI/Placement/92/2694 dt. 23-5-92. It has been disclosed by them that after getting the said authorisation letter concerned workman started discharging his duties as Cap Lamp Issue Clerk in Clerical Gr. III. But they alleged that management instead paying the wages of clerk Gr. III paid him wages of mazdoor Cat. II. They disclosed that still he is discharging his duties as Cap Lamp Issue Clerk and during this long period he put his attendance for more than 240 days in each year. The sponsoring Union alleged that inspite of rendering service for long years as Cap Lamp Issue Clerk the management did not consider to regularise him in that grade. On the contrary they exploited him in ugly manner.

As appeal for his regularisation in that post of Cap Lamp Issue Clerk Grade III did not yield any result he raised an Industrial Dispute for conciliation which ultimately resulted reference to this Tribunal for adjudication. Accordingly they submitted prayer to pass Award directing the management to regularise the concerned workman as Cap Lamp Issue Clerk in Clerical Gr. III. from the date of his authorisation to work as such by the management with full back wages and other consequential relief.

2. POINTS TO BE DECIDED

“Whether the demand of the union for regularisation of Sri Jagdish Prasad Mahato, Category-II Mazdoor to the post of Cap Lamp Issue Clerk is proper and justified ? If so, to what relief is the concerned workman entitled and from what date ?”

3. FINDING WITH REASONS

It transpires from the record that the sponsoring Union with a view to substantiate their claim examined the

concerned workman as WW-1. The instant case was taken up for exparte hearing as management neither appeared nor filed any Written Statement-cum-rejoinder though repeated notices under registered post were issued.

WW-1 during his evidence disclosed that in the year 1990 he got his appointment at Bhagaband Colliery as General Mazdoor. He disclosed that in the year 1991 management took his interview along with other workman for the post of Cap Lamp Issue Clerk. Thereafter in 1992 Personnel Manager as well as Agent of the Colliery issued order in his favour to work as Cap Lamp Issue Clerk. The orders issued by the management which the concerned workman relied on during his evidence were marked as Ext. W-1 and W-1/1. He submitted that in the year 1994 management issued chargesheet to him with the allegation of committing misconduct wherein also his designation was disclosed as Cap Lamp Issue Clerk. Copy of chargesheet during his evidence was marked as Ext. W-2. Thereafter, in the same year management issued kept in abeyance order (Ext. W-3) wherein also his designation was disclosed as Cap Lamp Issue Clerk. Thereafter he disclosed that management issued warning letter (Ext. W-4) wherein also his designation was disclosed as Cap Lamp Issue Clerk. He disclosed that in the year 1996 management again issued a chargesheet to him with the allegation of committing misconduct (Ext. W-5) wherein also he was designated as Cap Lamp Issue Clerk. He submitted that during this period he submitted atleast five representations to the management with prayer for his regularisation as Cap Lamp Issue Clerk in Clerical Grade-III and in support of his claim he submitted its copies which during his evidence were marked as Ext. W-6 series. The concerned workman during his evidence also relied on the copy of the attendance register to show that he used to put his attendance as Cap Lamp Issue Clerk (Ext. W-7). He disclosed that during this period he put his attendance as Cap Lamp Issue Clerk not only for more than 240 days in each year but also still he is discharging his duties in that capacity. He disclosed that he is I.S.C. and knowingly well as this fact management exploiting him for years together by taking his service of higher responsibility without paying proper wages. The official letter marked as Ext. W-2 issued by Dy. Chief Personnel Manager, P.B. Area addressed to Dy. CME/Agent Bhagaband Colliery speaks clearly that G.M. P.B. Area was agreed to allow the concerned workman to work as Cap Lamp Issue Clerk temporarily. The office order marked as Ext. W-1/1 shows that in pursuance to above mentioned letter the concerned workman was allowed to work as Cap Lamp Issue Clerk in Clerical Grade-III, temporarily with immediate effect considering his qualification. Therefore, it is clear that violating appropriate procedure for selection of a workman from Cat. I Mazdoor to cadre post in clerical Gr. III the concerned workman was allowed to work as Cap Lamp Issue Clerk. Though such appointment was temporary. It is seen that he is working in that capacity continuously. Concerned workman during his evidence disclosed that till date he is discharging his duties in that capacity. It is also evident from the official letter marked as Ext. W-1 that the concerned workman was placed against vacancy of Cap Lamp Issue Clerk. It is seen from the papers marked as Ext.

W-6 series that time to time he submitted representation to the management for his regularisation as Cap Lamp Issue Clerk in Clerical Gr. III. But the management did not pay any importance to his appeal. It is clear from the office orders marked as Ext. W-2 to W-5 that till 1998 the concerned workman discharged his duties as Cap Lamp Issue Clerk on temporary basis. Therefore, it is clear that since June, 92 he continuously is discharging his duties in such capacity.

It is the contention of the concerned workman that he was appointed as Cap Lamp Issue Clerk on temporary manner. The management neither considered necessary to regularise him in that post nor paid difference of wages for rendering higher responsibility. He submitted that though management exploiting his service with higher responsibility is paying wages, of T.R. Mazdoor. There is sufficient reason to believe such contention of the concerned workman because of the fact that he would not expose his agitation if he was not aggrieved.

No satisfactory explanation on the part of the management is forthcoming to rebut the claim of the concerned workman. Considering the facts and circumstances there is sufficient reason to draw conclusion that management without paying difference of wages exploited him to render higher responsibility which is to be considered absolutely arbitrary and against the principle of natural justice. Management did not consider to assign any reason why the representation submitted by the concerned workman for his regularisation in the post of Cap Lamp Issue Clerk in Clerical Grade. III was ignored particularly when it has been established that he is discharging his duties in that capacity continuously for years together.

Accordingly after careful consideration of all the facts and circumstances I hold that the concerned workman deserves to get his regularisation as Cap Lamp Issue Clerk particularly when during such long period not only he acquired sufficient experiences but also possessed sufficient academic qualification. The reference accordingly is answered in favour of the concerned workman ex parte.

In the result, the following Award is rendered :—

“The demand of the union for regularisation of Sri Jagdish Prasad Mahato, Category-II Mazdoor to the post of Cap Lamp Issue Clerk is proper and justified. Consequently, he is entitled to get regularisation in Clerical Grade. III as Cap Lamp Issue Clerk with effect from the date of raising Industrial Dispute and management have to pay him full back wages with other consequential relief from that date.”

Management is directed to implement the Award within three months from the date of its publication in the Gazette of India in the light of the observations made above.

B. BISWAS, Presiding Officer

नई दिल्ली, 22 फरवरी, 2005

का.आ. 1052.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि.के

प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद-II के पंचाट (संदर्भ संख्या 161/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-2-2005 को प्राप्त हुआ था।

[सं० एल-20012/191/97-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 22nd February, 2005

S.O. 1052.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 161/98) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 19-2-2005.

[No. L-20012/191/97-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

SHRI B. BISWAS, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 161 OF 1998

Parties : Employers in relation to the management of M/s. BCCL and their workman.

Appearances :

On behalf of the workman : Mr. K. Chakravorty, Advocate.

On behalf of the employers : Mr. B.M. Prasad, Advocate

State : Jharkhand Industry : Coal.

Dhanbad, the 19th January, 2005.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/191/97-IR(C-1), dated, the 3rd June, 1998.

SCHEDULE

“Whether the action of management of Moonidih Project Area of BCCL in dismissing the services of Sh. Etwari Mian Token No. 1880 is justified ? If not, to what relief the workman is entitled to ?”

2. The case of the concerned workmen according to Written Statement submitted by the sponsoring Union on his behalf in brief is as follows :—

The sponsoring union submitted that the concerned workman was a permanent workman at Moonidih Project. They alleged that management was very much biased and prejudiced against him for his active participation in the trade union activities and for that reason the management with *malafide* intention to punish and to victimise him issued a false and frivolous chargesheet dtd. 6/7-10-95 on the allegation of theft of companies properties. The allegation against him was that at about 10.30 A.M. at night while he was allegedly coming out of the maingate he was detained at the maingate by CISF Personnel and from his gumboot 500 grms (approx) copper wire was received for which he could not give any satisfactory explanation. They submitted that in reply to the said chargesheet he denied the allegation of theft as per chargesheet emphatically but as the management was detained to dismiss him from service arranged for a domestic enquiry as an eye wash and thereafter on the basis of the report of the enquiry officer which was biased and arbitrary dismissed him from service. They alleged that after passing order of dismissal the concerned workman raised his protest but as the same did not yield any result he raised an Industrial Dispute through sponsoring Union before the ALC(C), Dhanbad for conciliation which ultimately resulted reference to this Tribunal for adjudication. The sponsoring Union accordingly on behalf of the concerned workman submitted prayer to pass award directing the management to reinstate him in service with full back wages and other consequential relief setting aside the order of dismissal.

3. Management on the contrary after filing Written Statement-cum-rejoinder have denied all the claims and allegations which the sponsoring Union asserted in the Written Statement on behalf of the concerned workman. They submitted that the concerned workman, a daily rated mazdoor was posted in the second shift duty on 28-9-93 at the workshop of Moonidih Project. During the said second shift duty he commenced his duty at 4 P.M. at the beginning of the shift and was scheduled to be on duty till 12 midnight at the workshop. At about 10.30 P.M. he was found moving out of the maingate of workshop in a suspicious manner. On seeing him the CISF Personnel posted at the gate checked him and recovered 500 grams of copper wire hidden inside his gumboot. He was then apprehended and after completion of all formalities relating to identification of the persons, identification of material and recording of statement he was released as the management agreed to take disciplinary action against him under the Certified Standing Order instead of handing over him to police for taking appropriate action under criminal law. They submitted that at that time the concerned workman in presence of witnesses made his confessional statement admitting his guilty. Accordingly, Disciplinary authority for committing misconduct under clause 26.1.11 of the Certified Standing Order issued a chargesheet to him. He also submitted reply to the chargesheet but as his reply was not satisfactory the Disciplinary authority appointed Shri A.K. Sinha,

Senior Executive Engineer as Enquiry Officer to conduct domestic enquiry against him. They disclosed that in course of hearing of the enquiry proceeding concerned workman also appointed the co-worker Mr. P.G. Prosad to defend his case. They further disclosed that during hearing full opportunity was given to the concerned workman to defend his case through his co-workers. He also examined three witnesses in support of his defence. They disclosed that the Enquiry Officer conducted domestic enquiry fairly, properly and in accordance with the principle of natural justice and after completion of the said enquiry he submitted his report to the disciplinary authority holding the concerned workman guilty to the charge brought against him. Thereafter disciplinary authority considering the said report and also considering all aspect including representation submitted by him dtd. 26-11-94 dismissed him from service by letter of dismissal dt. 30/11/1-12-94. They categorically denied the fact that the Disciplinary Authority committed any illegality and took any arbitrary decision violating the principle of natural justice in dismissing the concerned workman from service. Accordingly, they submitted prayer to pass award rejecting the claim of the concerned workman.

4. POINT TO BE DECIDED

“Whether the action of the management of Moonidih Project area of BCCL in dismissing the services of Shri Etwri Mian Token No. 1880 is justified if not so, to what relief the workman is entitled?”

5. FINDINGS WITH REASONS

It transpires from the record that before taking up hearing of this case on merit it was taken into consideration if domestic enquiry held against the concerned workman was fair, proper and in accordance with principle of natural justice. Considering the record it transpires that vide Order No. 25 dt. 14-1-04 the said issue on preliminary point was disposed of with the finding that domestic enquiry held against the concerned workman was fair, proper and in accordance with the principle of natural justice.

Now the point for consideration is whether the management have been able to substantiate the charge brought against the concerned workman and if so whether the concerned workman is eligible to get any relief U/s. 11A of the Industrial Disputes Act.

It is admitted fact that the concerned workman was a daily rated mazdoor and posted at workshop of Moonidih Project. The contention of the Management is that on 28-9-93 concerned workman during second shift commenced his duty at 4 P.M. His duty hours in the 2nd shift was upto 12 midnight. It has been alleged by the management that at about 10.30 P.M. at night the concerned workman was apprehended by CISF Personnel while he was moving out of the maingate in a suspicious manner and during search 500 grams of copper wire was recovered from his gumboot. It is the specific allegation of the management that to stealaway the said quantity of copper

wire he kept the same inside his gumboot. Thereafter on completion of all formalities relating to his identifications of material seized and recording of his statement he was released instead of handing over to police for initiating criminal action against him only with a view to take departmental action against him. Accordingly chargesheet dt. 6/7-10-93 was issued to the concerned workman for committing misconduct under clause 26.1.11 of the Certified Standing Order applicable in the employees of the management. The chargesheet during evidence of MW-1 was marked as Ext. M.8.

Clause 26.1.11 of the certified Standing order speaks of committing misconduct for committing theft, fraud or dishonesty in connection with company's business property. After receiving chargesheet concerned workman submitted his reply wherein he not only denied the charge brought against him but also submitted that he was falsely implicated by the CISF personnel while he was going out of the main gate after taking permission with the authority with a view to attend his ailing wife. Being dissatisfied with the reply given by him the Disciplinary Authority decided to hold domestic enquiry against him and accordingly appointed Mr. A.K. Sinha, Senior Executive Engineer, Moonidih Area as Enquiry Officer, considering the enquiry proceeding papers I find no dispute to hold that the concerned workman fully defended his case through his co-worker. After completion of the hearing of enquiry proceeding the enquiry officer submitted his report holding the concerned workman guilty to the charges. The enquiry report during evidence of MW-1 was marked as Ext. M-2. Considering the enquiry proceeding papers and also considering the enquiry report it transpires that on the part of the management Presenting Officer produced as many as five witnesses for their examination. On the contrary concerned workman sexamined three witnesses with a view to defend his case. Apart from these witnesses management also relied on some material documents which the enquiry officer during hearing of the enquiry proceeding marked as Ext. MK-1 to MF-9.

From the statement of the management representative Mr. Ranji Singh it transpires that about 10.30 P.M. the concerned workman was apprehended by CISF Constable Jagpal Singh at the main gate and from inside his gumboot copper wire weighing 500 gram approx. was recovered. The matter was then reported to the shift incharge of CISF by the said constable. During enquiry management also relied on the statement signed by MW-1 Laloo Shaw AFM, Moonidih Workshop. From the statement of Laloo Shaw AFM it transpires that the concerned workman was available in workshop upto 10 A.M. on 28-9-97 and accordingly his attendance was deducted. Thereafter the CISF Commandant visited the workshop and informed about apprehension of one person at the maingate with copper wire kept concealed in his gumboot. Accordingly he went to the main gate and identified that person as the concerned workman. He further disclosed that from his possession 700/800gm of copper wire was recovered. Therefore, if the statement of MW-1, Laloo Shaw AFM is taken into consideration it will expose that not 500 gms of

copper wire but 700/800 gms of copper wire was recovered from the possession of the concerned workman. In course of hearing management have failed to give any satisfactory explanation to the gross anomaly actually which quantity of copper wire was recovered from the possession of the concerned workman. It is further clear from his statement that Laloo Shaw AFM was not in the spot when the concerned workman was apprehended by CISF Constable Jagpal Singh. He only came to the spot after getting information from the CISF Commandant and identified the concerned workman as employee of the workshop. He also identified the copper wire as the property of the management but did not disclose on the basis of which sign or mark he identified the same as property of the management. During enquiry management representative though admitted that the concerned workman was not a literate person some how he signed the statement and also put his LTI. It is the specific defence of the concerned workman that CISF personnel took his signature on a blank paper and that statement was supported by other defence witnesses. As per submissin of the concerned workman he only can write his name but cannot read as he is an illiterate person. Management representative also admitted that the concerned workman was not a literate person. Therefore, it is to be looked into with all care and caution actually who recorded the confessional statgement of the concerned workman and in whose presence. If the statement of the management witness Amit Sinha Roy, Executive Engineer (E & M) Workshop is taken into consideration it will expose that he was also not present when the concerned workman was apprehended by CISF personnel from whose possession 500 grams of copper wire was recovered. From his statement it further transpires that he requested the CISF Commandant to release the concerned workman and to submit report to the management for taking departmental action against him. From the statement of MW-4 R. P. Sahi it transpires that he heard the incident from A. Sinha Roy and he further admitted that he did not visit the place of occurance. From the statement of S. Pathiaram, Shift incharge CISF it transpires that he received the information over telephone and then reported the matter to the Asstt. Commandant Mr. M. Knable who after getting that information arrived on the spot and thereafter he called Laloo Shaw AFM of workshop for identification of the concerned workman. Therefore, it is clear that this witness also was not present on the spot when the concerned workman apprehended and from whose possession alleged copper wire was recovered.

If the statement of MW-1 to MW-5 are taken into consideration it will expose clearly that excepting CISF Constable Jagpal Singh none was present on the spot when the concerned workman was apprehended. MW-4 and MW-5 even did not visit the spot after getting information of incident in question. It is the specific allegation of the management that the concerned workman gave his confessional statement after the incident which was got signed by him. He also put his LTI thereon. The said statement during enquiry proceeding was marked as ME-3. I have already mentioned above that the concerned

workman categorically disclosed that his signature was taken in a blank paper. He also denied the fact of giving any confessional statement to anybody. Considering the statement of MWs. I have failed to find out an iota of evidence actually who recorded the confessional statement of the concerned workman. It is clear that though ink used in recording the said statement and signature of the concerned workman are same it is clearly evident that the same were not written by the same person. It is evident that the concerned workman was an illiterate person and for which it was not possible for him to write the said statement which the management highlighted as the confessional statement of the concerned workman in connection with theft of copper wire. It is specific allegation of the concerned workman that CISF personnel obtained his signature in a blank paper. Onus absolutely was on the management to disprove such claim of the concerned workman. The statement which has been marked as Ext. ME-3 in course of hearing of the enquiry proceeding by the Enquiry Officer does not show if that statement of the concerned workman was taken in presence of any witness. It is also silent if its contents was read over and explained to the concerned workman after its recording particularly when he was an illiterate person. The statement also is silent when it was recorded. It is settled principle of law that statement of the offender about his admission to commit any offence cannot be considered as substantive piece of evidence to arrive into conclusion about his guilt until and unless the same is substantially corroborated by other cogent evidence. It is the specific allegation of the management that copper wire was recovered from the possession of the concerned workman which he kept concealed inside his gumboot. It is also specific allegation of the management that he was caught red handed at the main gate. The most funny thing is that after recovery, the security personnel did not consider necessary to prepare any seizure list of the articles seized from the possession of that person. Even management did not consider necessary to produce the seized articles either before the enquiry officer or in course of hearing before this Tribunal. During hearing Ld. Advocate for he has failed to give any satisfactory explanation in this regard. Considering the materials on record there is no dispute to hold that the concerned workman within his duty hours left the workshop and was apprehended by the CISF personnel at the main gate. For leaving the place of work without obtaining prior permission is to be construed as a different issue and cannot be tagged with the allegation of theft until and unless the same is established beyond all reasonable doubt.

In view of my discussion above it is clear that the concerned workman was arrested by CISF Constable Jagpal Singh at the main gate. There is no evidence if that constable was the only constable posted at the main gate or a team of security personnel was present there on duty. It is seen that excepting Jagpal Singh there was no eye witness to the incident in question. There is no hindrance to find the offender guilty to the charges brought against him relying on solitary evidence but before taking into consideration of that solitary evidence it is to be accounted for its credibility. It is seen that senior officials of the management

including senior CISF personnel came to the spot after receiving information about the incident but no one in course of evidence disclosed that in their presence the offender made his confessional statement and who recorded the same. The senior CISF personnel were not unaware about preparation of seizure list on the spot for the seized articles after its recovery in presence of the witness but no satisfactory explanation is forthcoming why such vital formalities abiding by the provision of law was not observed. Excepting Jagpal Singh as the other witnesses were not present at the time of apprehending the concerned workman I find little scope to give any importance in absence of observation of all vital formalities which I have discussed above.

Considering statement of the concerned workman it transpires that there was no good relation in between him and said constable Jagpal Singh. When that fact came into existence it was expected that the management should be cautious to deal with the case but they did not consider necessary to do so. In such circumstances the vital aspect which required to be considered is that the alleged article in question was actually recovered from the possession of the concerned workman. In view of my discussion above I hold firmly that management has failed to establish this fact beyond all reasonable doubts. As per provision of law it is not obligation of the offender to prove his innocence but is obligation on the part of the management to establish the charge brought against him. My discussion above has clearly exposed that the management have failed to establish beyond all reasonable doubt that copper wire actually was recovered from his possession. It is not wise enough to find a person guilty to the charges relying on evidence which appears to be very doubtful and weak in nature. It is seen that relying on the enquiry report management dismissed the concerned workman from his services but before passing such order the disciplinary authority did not consider vital aspects which I have discussed above. On the contrary without application of mind properly they dismissed the concerned workman from his service which I consider was illegal, arbitrary and against the principle of natural justice. As the management have failed to establish the charge beyond all reasonable doubt the concerned workman is entitled to get the benefit of doubts. As the management have failed to establish the charge the order of dismissal issued by the Disciplinary Authority relying on the report of the enquiry officer is liable to be set aside. In the result, following Award is rendered :—

“The action of the management of Munidih Project Area of BCCL in dismissing the services of Shri Etwari Mian Token No. 1880 is not justified. Consequently, the concerned workman is entitled to get reinstatement to his original post with 25% back wages and other consequential benefits from the date of his dismissal to the date of his reinstatement.”

Management is directed to implement the Award within three months from the date of its publication in the Gazette of India in the light of the observation made above.

B. BISWAS, Presiding Officer

नई दिल्ली, 22 फरवरी, 2005

का.आ. 1053.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद II के पंचाट (संदर्भ संख्या 63/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-02-2005 को प्राप्त हुआ था।

[सं. एल-20012/39/97-आई आर (सी.-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 22nd February, 2005

S.O. 1053.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 63/98) of the Central Government Industrial Tribunal/Labour Court Dhanbad II now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 19-02-2005.

[No. L-20012/39/97-IR(C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL No. 2 AT DHANBAD

PRESENT:

SHRI B. BISWAS, Presiding Officer.

In the matter of an Industrial dispute under Section 10(1)(d) of the I. D. Act, 1947.

Reference No. 63 of 1998

Parties : Employers in relation to the management of M/s. BCCL and their workman

APPEARANCES

On behalf of the workman : Mr. K. Chakravorty, Advocate.

On behalf of the employers : Shri R.N. Ganguly, Advocate

State Jharkhand. : Industry : Coal.

Dated, Dhanbad, the 19th January, 2005.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this tribunal for adjudication *vide* their Order No. L-20012/39/97-IR(C-I), dated, the 11th March, 1993.

SCHEDULE

“Whether the action of the General Manager, Block II Area M/s. BCCL, P. O. Nawagarh (Dhanbad) in dismissing Smt. Murti Kamin OBR w.e.f. 21-6-1984 is justified ? If not to what relief is the concerned workman entitled to”

2. The case of the concerned workman according to the Written Statement submitted by the sponsoring Union on his behalf, in brief, is as follows :

The sponsoring union submitted that the concerned workman was a permanent OBR at Benidh Colliery (OCP). They submitted that the said lady worker went on maternity leave w.e.f. 22-10-80 duly sanctioned by the management and she gave birth to a baby on 15-1-81. After delivery as she was not keeping good health prayed for extension of her leave. They submitted that after recovery from her ailment when she went to her place of work for resuming her duty the local management did not allow her to join taking the plea that her case was referred to HQ for decision. Thereafter they issued a chargesheet to her for committing misconduct on the ground of absenteeism since 27-2-81. After receipt of the said chargesheet she submitted her reply denying the charges levelled against her and simultaneously explained the ground why she could not attend to her duty after maternity leave was over. They alleged that inspite of receiving her reply management without accepting the same decided to hold domestic enquiry against her and appointed enquiry officer accordingly. The said enquiry officer conducted domestic enquiry and disbelieving the ground of his absence submitted his report holding her guilty to the charges brought against her. The disciplinary authority instead of considering her case sympathetically relying on the report of the enquiry officer dismissed her from service illegally, arbitrarily and violating the principle of natural justice. They submitted that thereafter they took up the case of the concerned workman with the management for its amicable settlement but as it did not yield any result they were compelled to raise an Industrial Dispute for conciliation which ultimately resulted reference to this Tribunal by the Ministry for adjudication.

The sponsoring Union accordingly, submitted prayer to pass award directing the management to reinstate the concerned worker in her service from the date of dismissal setting aside the order of dismissal with full back wages and other consequential relief if any.

3. The Management, on the contrary, after filing written statement-cum-rejoinder, have denied all the claims and allegations which the sponsoring Union asserted in the Written Statement. They submitted that the concerned lady worker was allowed by the management to enjoy maternity leave for delivery of her baby. Thereafter on 15-1-81 she gave birth to a baby. They disclosed that as per rules a female worker is entitled to get six weeks maternity leave from the date of delivery of her baby and accordingly the concerned lady worker was to report for her duties w.e.f. 27-2-81. They alleged that instead of resuming her duties on the said date she started remaining herself on unauthorised leave and in this way she remained herself absent from duty for a continuous period of about two years. Accordingly the Disciplinary Authority issued chargesheet dated 6-2-83 to the concerned workman for committing misconduct on the ground of absenteeism. On receipt of the said chargesheet said lady worker submitted her reply denying all the charges brought against her. As the reply given by her was not satisfactory the disciplinary authority appointed enquiry officer to hold domestic enquiry against her. During hearing the concerned lady worker fully participated in the said enquiry and the said enquiry officer after completing domestic enquiry submitted

his report holding her guilty to the charges brought against her. They further submitted that the said enquiry was conducted by him fairly, properly and in accordance with the principle of natural justice.

They submitted further that after considering the report submitted by the enquiry officer and also considering all other aspects the disciplinary authority dismissed her from service. They categorically denied the fact that the said order of dismissal was either illegal or it violated the principle of natural justice and accordingly they submitted that she is not entitled to get any relief in view of her prayer and for which they submitted prayer to reject the claim of the sponsoring union.

4. POINTS TO BE DECIDED

"Whether the action of the General Manager, Block-II Area M/s. BCCL, P.O. Nawagarh (Dhanbad) in dismissing Smt. Murti Kamin OBR w.e.f. 21-6-1984 is justified? If not, to what relief is the concerned workman entitled to?"

5. FINDING WITH REASONS

It appears from the record that before taking up hearing of this case on merit it was taken into consideration whether domestic enquiry conducted against the concerned lady worker by the Enquiry Officer was fair, proper and in accordance with the principle of natural justice. The said issue on preliminary point was disposed of *vide* order No. 10 dated 31-3-2004 against the concerned workman.

Now the point for consideration is if the management in course of hearing have been able to substantiate the charge brought against her and if so whether she is entitled to get any relief U/S. 11A of the I.D. Act, 1947.

Considering the materials on record there is no dispute to hold that the concerned lady worker was posted at Benedihi Colliery as OBR. It is also admitted fact that she went on maternity leave w.e.f. 22-12-80. Contention of the management is that she was entitled to six weeks leave as per the provision of law from the date of delivery of the baby. They disclosed that she gave birth to a baby on 19-1-81 and accordingly as per rules she was to report for her duty with effect from 27-2-81 but she failed to do so. On the contrary without any information or permission she started remaining herself absent from duty. They disclosed that as she continuously remained absent on duty for about two years the disciplinary authority issued chargesheet to her dt. 6-2-83 for committing misconduct on the ground of absenteeism. They submitted further that on receipt of the said chargesheet the concerned lady worker submitted his reply denying the charges brought against her but as the reply given by her was not satisfactory the disciplinary authority decided to hold domestic enquiry against her. The charge sheet during evidence of MW-1 was marked as Ext. M-1, which was supported the claim of the management why the disciplinary authority decided to hold domestic enquiry against her for committing misconduct on the ground of her remaining absent from duty for a long period. It transpired from the enquiry proceeding papers that in course of hearing of domestic enquiry the concerned workman not only remained present but also defended his case fully through co-worker Sri R.B. Ram.

During hearing of the said enquiry proceeding management witness Dr. K.K. Tantaway categorically submitted that the concerned lady worker applied for maternity leave on 22-12-80 and the same was recommended for sanction. This witness further disclosed that the said lady worker on 15-1-81 gave birth to a male baby and that matter was reported to him in writing but thereafter she never reported to him for resumption of her duty or for any kind of treatment. He disclosed that during last week of January, 1983 her man came with the outdoor medical treatment ticket dt. 22-12-80 for getting the certificate of fitness in connection with resumption of duty. This witness disclosed that he did not issue any certificate of fitness as she remained absent for such a long period without sufficient cause. During hearing of enquiry proceeding concerned lady workman also gave her statement. She disclosed that on 25-2-81 she sent a letter to the Colliery Manager informing him about her ailment after delivery. Thereafter again on 6-1-82 she sent a letter to the Colliery Manager with the intimation of her ailment. She disclosed that on 14-5-82 she became fit and met the doctor and also wrote a letter to the Agent for seeking permission to resume her duty. She admitted that the doctor refused to issue fit certificate without consulting all medical papers for her treatment by outside doctor. Thereafter she filed a case in the Labour Court and during pendency of hearing of that case management issued chargesheet to her.

If the statement of the concerned lady worker is taken into consideration it will expose clearly that the facts which she disclosed in her reply to the charge sheet in the matter of remaining absent from duty till 14-5-82 appears to be exaggerated and finds no basis at all. Her statement also finds corroboration to the fact disclosed by Dr. K.K. Tantaway atleast upto the period of 14-5-82. She disclosed that during this period she wrote two letters on 25-2-81 and 6-1-82 to the Colliery Manager informing him about her ailment. She admitted that before 14-5-82 for her ailment she remained under treatment of village doctor. She neither disclosed that ailment which she was suffering from nor she could be able to produce any medical papers in support of her treatment. She disclosed during her cross-examination that these two letters were sent to the Colliery Manager under Certificate of posting but in spite of claiming so she has failed to produce a single scrap of paper. She disclosed that on 14-5-82 she further wrote a letter to the Agent seeking permission for resumption of her duty but to that effect also she has failed to produce a single scrap of paper. Therefore, the plea taken by her finds no basis at all.

It is the contention of the concerned workman that she filed a case before the Labour Commissioner and thereafter management issued chargesheet to her illegally and arbitrarily. In spite of claiming so the concerned workman did not consider necessary to submit any copy of such petition. Moreover, the fact which is coming before this Tribunal is that after exploring of the maternity leave the concerned lady worker did not resume to her duty. On the contrary it has been established that she remained absent unauthorisedly for about two years which absolutely was against the provision as laid down in 17(i)(n)

of Model Standing order applicable to the employees of the management. Onus accordingly rests on the concerned workman to establish that her remaining absent from duty for such long period without any intimation or taking permission from the management was justified and management illegally and arbitrarily violating the principle of natural justice issued chargesheet to her. The record will speak that inspite of getting plenty of scope she has failed to produce any such evidence to substantiate her claim. Considering all materials on record meticulously I find sufficient reason to hold that there was sufficient ground to issue charge sheet against the concerned lady worker. I am also satisfied considering all materials on record that management have well established the charge brought against the concerned workman.

It transpires that considering enquiry report submitted by the Enquiry Officer and also considering all material aspects the disciplinary authority dismissed her from her service. The letter of Dismissal during hearing was marked as Ext. M-6.

Now the point for consideration is whether the said order of dismissal issued against the concerned workman was justified and in conformity with the misconduct committed by her and whether she is entitled to get any relief U/s. 11A of the I.D. Act, 1947.

Section 11A of the I.D. Act speaks as follows :—

“Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require.”

Therefore, as per provision laid down in Section 11A of the I.D. Act it is to be looked into whether the order of dismissal passed against her was justified or not.

In view of my discussion above it is evident that she was allowed to enjoy maternity leave upto 27-2-81. It is seen that after enjoying maternity leave she did not resume her duty. On the contrary she started remaining herself absent from duty without giving any information or taking any permission from the management. Concerned workman in course of hearing took the plea that on two occasions in writing she sent information under certificate of posting to the colliery manager about her ailment. Inspite of claiming so she neither was able to produce the receipt of under certificate of posting nor any medical papers relating to her treatment by private doctor. It is seen that without assigning any reason for about two years she remained herself absent from duty. She was a permanent overburden remover of the management. As a result of such long absence the management deprived of getting her service. Neither in the reply to the chargesheet she admitting her misconduct

expressed any sort of repentance nor she showed any such sign in course of hearing. On the contrary although she pleaded her innocence and for which she alleged that management illegally and arbitrarily violating the principle of natural justice not only issued chargesheet but also dismissed her from her service.

It is the bounden duty of all workers to maintain discipline for the interest of administration and also for the sake of production. In the instant case it transpires that the concerned lady ignoring the discipline of the company as of her choice abstained herself from duty for a long period and for which she was not at all repeatance for the same. If the statement of N.C. Chakravorty, A.C.M. which was recorded by the enquiry officer is taken into consideration it will expose that this concerned lady was in the habit of remaining herself absent from duty without any intimation or taking any permission from the management and for that reason she was chargesheeted on number of occasions but she was allowed to join her duty after entering into a compromise with her Union. If this aspect is taken into consideration it will expose clearly that it was not possible on her part to mend the habit of remaining herself absent from duty unauthorisedly as of her choice.

It is expected that every worker should be duty bound in the matter of attendance and performance of duty allotted. There is no scope to run the company smoothly if its workers are not disciplined and duty bound. Here the concerned lady worker was not negligent and whimsical that she did not care to attend her duties abiding by the discipline of the company. It is not expected that management will be debarred from taking any disciplinary action against the workman inspite of committing serious misconduct. After considering all aspects there is no scope to say that the order of dismissal issued against the concerned workman was either unjustified or disproportionate to the offence committed by her. Accordingly I do not find any sufficient ground to set aside the order of dismissal issued against the concerned workman invoking the provision as laid down U/s. 11 of the I.D. Act.

In the result, the concerned workman is not entitled to get any relief. Accordingly, following Award is rendered :—

“The action of the General Manager, Block II Area M/s. BCCL, P.O. Nawagarh (Dhanbad) in dismissing Smt. Murti Kamin OBR w.e.f. 21-6-1984 is justified. Consequently, the concerned workman is not entitled to get any relief.”

Sd/-

B. BISWAS, Presiding Officer

ई दिल्ली, 22 फरवरी, 2005

का.आ. 1054.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार टिस्को के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद II, के पंचाट (संदर्भ संख्या 42/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-02-2005 को प्राप्त हुआ था।

[सं. एल-20012/254/2002-आई आर(सी.-I)]

एस० एस० गुप्ता, अवर सचिव

4. That the settlement will be treated as full & final in respect of all claims arising out of the industrial dispute referred to above and no further claim will be made by the workman upon the management in this regard.
5. That the parties shall jointly file a copy of settlement before the Central Govt. Industrial Tribunal No. II., Dhanbad with a prayer to treat the dispute mutually resolved and for giving a consent Award in terms thereof.

In acceptance of the terms and conditions of this Memorandum of Settlement, both the parties have given their signatures to this memorandum of Settlement on the 1st December, 2004

On behalf of The Tata Iron & Steel Co. Ltd.

Sri P. K. Pattanayak,
Chief (HR/IR),
M/s. Tata Iron & Steel
Company Ltd.,
PO. Jamadoba,
Distt. Dhanbad (Jharkhand)

Sri Shashi Kumar,
Manager (HR/IR),
M/s. Tata Iron & Steel
Company Ltd.,
P. O. Jamadoba,
Distt., Dhanbad (Jharkhand)

On behalf of the workman

Sri A.K. Sinha,
Secretary, Rashtriya
Colliery Mazdoor
Sangh, 6 & 7 Pits
Colliery Branch.

Sri Basdeo Turi,
Ex. Longwall Crew, Ex.
P. No. 216703, 6 & 7,
Pits Colliery.

WITNESSES

(Dinesh Kumar Sharma) (Suresh Prasad Sinha)
Jamadoba
1st. December, 2004

नई दिल्ली, 22 फरवरी, 2005

का.आ. 1055.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बैंगलोर के पंचाट (संदर्भ संख्या 107/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-02-2005 को प्राप्त हुआ था।

[सं. एल-12012/163/1999-आई आर (बी-II)]

सौ. गंगाधरण, अवर सचिव

New Delhi, the 22nd February, 2005

S.O. 1055.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 107/1999) of the Central Government Industrial Tribunal/ Labour Court, Bangalore as shown in the Annexure, in the Industrial Dispute between the management of Syndicate Bank and their workman, received by the Central Government on 21-02-2005.

[No. L-12012/163/1999-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -CUM-LABOUR COURT “SHRAM SADAN”

III MAIN, III CROSS, II PHASE, TUMKUR ROAD,
YESHWANTHPUR, BANGALORE-560022.

Dated : 8th February 2005

PRESENT:

SHRI A. R. SIDDIQUI, Presiding Officer

C. R. No. 107/1999

I Party

Shri Srikara Ullal,
C/o K. G. Navagekar,
H. No. 1175,
Konawal Galli,
Belgaum-590002

II Party

The Chairman,
Syndicate Bank,
Head Office,
Manipal-576 101
Udupi (Karnataka)

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order. No. L-12012/163/99/IR/(B-II) dated 29th September, 1999 for adjudication on the following schedule:

SCHEDULE

“Whether the action of the management of Syndicate Bank in dismissing Shri Shrikara Ullal is justified? If not, what relief the workman concerned is entitled?..”

2. The case of the first party workman, as made out in the Claim Statement, briefly, stated (the pleadings of the parties on the point of validity or illegality or otherwise of the enquiry proceedings have been omitted, there being a separate finding by this tribunal on the said point holding that enquiry conducted against the first party by the Second Party was fair and proper) is that he joined the services of the Second Party Bank on 10-8-85 and was discharging his duties honestly and sincerely, thereafter. While he was serving the management branch office at Belgaum on 15-7-95 he received the charge sheet from the management on the allegations that while working as a Clerk at Athani Branch on 6-4-1992 he made an entry in the pass book of SB Account No 2908 of Sangouda Rachagouda Patil, Agriculturist, Athani, showing a credit of Rs. 5000 mentioning in words ‘by cash/Ullal’ without actually depositing the cash and thereby increased the balance in his said cash book and that on 8-4-92 he made a fictitious credit entry in the corresponding ledger sheet of the said account number without actually receiving the cash of Rs. 5000 from the said Shri S.R.Patil, thereby, he manipulated the bank records by altering the figures of some other accounts such as in the balancing sheet and also resorted to Tampering of bank records of said Patil in the Athani branch, thereby he committed an act prejudicial to the interest of the Bank and committed misappropriation of the aforesaid amount and committed misconduct accordingly; that the workman denied the aforesaid charges as well as the allegations that he borrowed a sum of Rs. 5000 from

the said Patil and made false entry in his pass book as well as in the corresponding Ledger sheet and thereby committed misconduct as alleged. He alleged that there was no sufficient and legal evidence before the Enquiry Officer much less the evidence of said S. R. Patil to be found basis for the proof of the misconduct alleged to have been committed by him and therefore, the finding given by the Enquiry Officer were illegal and perverse. He contended that on the basis of those illegal findings not supported by any cogent evidence and reasonings, the management with a malafide intention has dismissed him from service and that the punishment of dismissal is again not proportionate to the gravity of the misconduct alleged to have been committed by him; that at the result of the dismissal punishment workman and his family members have been put to lot of distress and suffering and that he has been unemployed during the period he was out of the service of the management.

3. The management on the other hand by its Counter Statement, while admitting the fact that a charge sheet on the aforesaid allegations was issued to the workman resulting into Domestic Enquiry and that on the basis of the enquiry findings he was dismissed from service however, denied the allegations of the workman that it was a false charge sheet foisted upon him for no fault of his. It contended that the reasonings of the Enquiry Officer holding the workman guilty of the charge of misconduct are supported by sufficient and legal evidence and that the non examination of said S. R. Patil before the enquiry was not a circumstance sufficient to vitiate the enquiry proceedings or to hold that the findings given by the enquiry officer suffered from any illegality or perversity. The management denied the contention that there was any malafide on the part of the management in acting upon findings of the Enquiry Officer and dismissing him from service. It was contended that the misconduct committed by the workman was very grave in nature and therefore, he deserved extreme punishment of dismissal; that accepting the findings of the Enquiry Officer a show cause notice was issued to the workman proposing the punishment of dismissal and an opportunity of personal hearing. He appeared on 18-3-98 along with his defence representative on the date personal hearing was taken up and submitted his written statement pleading lesser punishment other than dismissal. Since the submission made by the workman is not found to be satisfactory and considering the gravity of the misconduct committed by him, the Disciplinary Authority vide proceedings dated 30-3-98 passed an order of dismissal which punishment of dismissal therefore, was quite proportionate and in commensurate to the gravity of the misconduct committed by him. His appeal against the dismissal order was also rejected. Therefore, the workman now cannot be allowed to contend that the order of dismissal passed against him was tainted with malafide intention on the part of the management or that punishment of dismissal was not incommensurate and proportionate to that of misconduct committed by him. The management also denied the allegation that the workman and his family members have suffered from any hardship or suffering at the result of punishment of dismissal and that he has been unemployed from the date of the dismissal. Therefore, in

the light of the above, the points of dispute to be determined by this tribunal would be "Whether the management was not justified in dismissing the workman from his service and if not what relief the workman is entitled to".

4. As noted above, on the point as to whether the enquiry conducted against the first party by the Second Party was not fair and proper, the management examined one witness as MW1 and got marked 4 documents including the enquiry proceedings as well as enquiry findings and the impugned punishment order. Whereas, on the part of the workman examined himself as WW1 and got marked 7 documents at Ex. W1 to W7.

5. After hearing the learned counsel for the respective parties, on the above said point, my learned predecessor by order dated 24-2-2003 recorded a finding to the effect that the Domestic Enquiry is fair and proper. It is thereafter, I have heard the learned counsels of the respective parties on merits of the case i.e. on enquiry findings as well as on the point of punishment and the following award is being passed.

6. Learned counsel for the first party, vehemently, argued that the enquiry conducted against the first party by the second party on the basis of the charge sheet issued after a lapse of period of 3 years from the date of the alleged misconduct said to have been committed by him is bad in law and on account of inordinate delay itself the enquiry findings have to be quashed and so also the punishment order. He contended that the Enquiry Officer committed gross error in relying upon certain oral and documentary evidence and at the same time rejecting a very important document viz. the letter of the said S.R. Patil written to the first party and copy marked to the management making it very much clear that neither the workman obtained a loan of Rs. 5000/- from him nor made any false entry in his pass book showing credit of Rs. 5000/- in his name. He contended that there is no evidence to show that the alleged credit entry in the pass book was made by the workman himself. He contended that the payment of "Rs. 5000/- as well as interest amount thereon by the first party was at the result of the pressure brought on him by giving threats of taking police as well as civil action against him by dismissing him from service. He contended that charges of misconduct leveled against the workman ought not to have been taken as proved for the simple reason that there was no proper explanation by the management as to why the above said fraud or misappropriation of funds by the first party could not be detected for a long period of 3 years. Therefore, he requested this court to set aside the dismissal order. On the point of punishment, he submitted that it was quite severe and excessive keeping in view of the fact that the amount involved was hardly Rs. 5000/- and it was already made good by the first party along with interest amount, of course, under the threats and coercion.

7. Whereas, the learned counsel for the management argued that findings of the Enquiry Officer are very much based on cogent and legal evidence and the mere fact that S. R. Patil was not examined during the course of enquiry, it cannot be said that the charges of misconduct were not proved by any other oral or documentary evidence pressed into service by the management during the enquiry. He contended the very fact that the workman deposited a sum

of Rs. 5000/- misappropriated in this case and also paid interest of Rs. 3000/- and odd on the said amount would be a circumstance sufficient to hold that he was responsible for the fraud and misappropriation committed by him. He submitted that non-examination of Shri S. R. Patil as a complainant is not a circumstance fatal to the case of the management keeping in view the established principles of law laid by their lordship Supreme Court on the point.

8. After having gone through the records, I find very much substance in the arguments advanced for the management. Keeping in view the finding recorded by this tribunal to the effect that the Domestic Enquiry conducted against the first party by the Second Party was fair and proper. The next question to be considered was as to whether the findings of the enquiry suffered from perversity so as to be interfered at the hands of this tribunal Learned, counsel for the first party, as noted above, laid emphasis, in this context, on the point that there was no sufficient and legal evidence much less evidence of the said S.R. Patil before the Enquiry Officer so as to draw a conclusion that the first party committed the misconduct as alleged in the charge sheet whereas, learned counsel for the management countered his arguments, as noted, above. The details of the allegations made in the charge sheet dated 15-7-95 against the workman are as under :—

“Charge sheet: That you were working as clerk at our Athani Branch since 10-8-85 onwards. That while working in your position as such, on 6-4-92 you made an entry in the Pass Book of SB account No. 2908 of Shri Sangouda Rachagouda Patil, Agriculturist, Athani showing a credit of Rs. 5000/- with the narration in words “by Cash/Ullal” without actually depositing the cash and increased the balance in the pass book. On 8-4-1992, you also made a fictitious entry in the corresponding ledger sheet of SB account 2908 of Shri S. R. Patil for Rs. 5000/- without actually receiving the cash.

That in order to tally the S. B. balancing, you resorted to manipulation of bank records by altering the figures of some other accounts and in the page total in the balancing book and subdaysheet.

That in order to conceal your above acts you also resorted to pilferage/tampering of Bank records.

The following circumstances appear against you in respect of the above transaction :—

That Mr. Sangouda Rachagouda Patil, Agriculturist, Hadi Ingalaon, Athani was maintaining an SB account No. 2908 with our Athani branch. That during the first quarter of the year 1992 you reportedly borrowed an amount of Rs. 5000/- from Mr. S. R. Patil with a promise to repay the same by crediting the amount to his SB account No. 2908 with the branch.

That on 6-4-92 you made fictitious entry in the pass book of Shri S. R. Patil showing a credit of Rs. 5000 with the narration ‘by cash/Ullal’ and increased the balance in the pass book to 56974.74, without actual credit of the amount in the books of the branch, to make believe Mr. S. R. Patil that you have repaid the loan obtained from him earlier.

That on 8-4-92 you made a corresponding fictitious entry in the SB account ledger sheet pertaining to SB account 2908 of Shri S.R. Patil without actually receiving the cash. The branch records do not indicate that cash has been accounted for on that day for credit of the said SB account. You enhanced the balance in the ledger sheet to Rs. 56,974.74 after making the fictitious entry of Rs. 5000/-.

That in order to conceal your above act you resorted to manipulation of bank records by altering the figures of some other accounts in the SB balancing book as shown here below :—

1. That you altered balancing figure in respect of SB account 2869 as on 31-3-93 in the balancing book as 24758.60 instead of Rs. 29,758.60.
2. That you totalled page total as on 8-6-93 in the backside of page No. 22 as 7988821 instead of 84888.21.
3. That you totalled the backside of page No. 22 as on 29-7-93 as 78757.01 as against the actual total of 83757.01.
4. That you altered the balancing figure in respect of SB account 2887 as on 23-2-94, by altering the digit '5' into '0' with pencil thereby altered the actual balancing figure of 35055.55 to 30055.53. Consequently you also totalled the balancing figure as 1,03,652.15 instead of 1,08,652.15 as on 23-2-1994 on the reverse of page No. 27 of the balancing book.
5. That you totalled the reverse of page no. 27 as on 31-3-94 as 1,73,899.72 instead of 1,78,899.72.
6. That you totalled the page total on the reverse of page no. 27 as on 8-6-1994 as 40949.72 instead of 45949.72.

That in order to conceal the fictitious entry made by you in the ledger sheet you also resorted to tampering of the branch records by tearing away page No. 23 of the balancing book. You also altered the debit figure in the sub day book as 60,013.04 instead of 55013.04 and in doing so tore of a portion of the sub day book as on 16-7-1994 so as to make detection of your act difficult.

That when the branch took up tallying of SB account as on 20-9-1994, fictitious entry made by you in SB 2908 for Rs. 5000/- came to light and then you on 10-1-1995 reimbursed an amount of Rs. 5000/- towards SB account 2908. Thereafter again on 25-1-99 you reimbursed an amount of Rs. 3300/- being the interest on Rs. 5000/- that you have also submitted a letter dated 29-3-95 addressed to the Manager informing him that you had made a wrong entry in the SB account 2908 of Shri S.R. Patil.

That your acts of making fictitious entry in the pass book and ledger sheet of SB 2908, manipulation of bank records and tampering of the bank records are quite serious in nature and constitute gross misconduct within the making of clause no. 19.5 of the Bipartite Settlement.

We therefore, charge you for doing acts prejudicial to the interest of the Bank vide clause no. 19.5 (j) of the Bipartite Settlement 1966.

Please let us have your statement of defence, if any, within 15 days from the date of receipt of this charge sheet”

9. It is to be seen from the records, rather, from the proceedings of the enquiry and enquiry report submitted by the Enquiry Officer that 3 witnesses were examined on the part of the management and as many as 16 documents were marked during the course of enquiry to establish the charges leveled against the workman. From the perusal of the oral and documentary evidence brought on record before the Enquiry Officer, it cannot be said that it was a case of ‘no evidence’ or was a case of ‘insufficient evidence’. It appears to me worthwhile to bring on record the very issues framed by the Enquiry Officer and the finding given by him on those issues starting from page 10 to 13 excluding the finding Issue No. 5 where under he came to the conclusion that it was not established by the management by sufficient evidence. Those issues and the analysis and the evidence on the above said pages read as under:—

Analysis of Evidence (Issue wise)

Issue No. 1: Whether Mr. Srikara Ullal borrowed Rs. 5000/- in 1992 from Shri S. R. Patil with a promise to repay the same by crediting to his SB Account No. 2908.

The MW-1 who investigated the case deposed that he talked to Mr. S. R. Patil, the customer of SB Account No. 2908 in the Manager's Cabin. Then Shri S.R. Patil informed that Shri Ullal has taken Rs. 5000/- stating that he would credit the amount to SB Account of Shri S. R. Patil. MW 1 stood by his statement as above during cross examination also. MW3 the then Manager while answering DQ-29 and DQ-30 informed that as soon as he came to know the fictitious entry, he enquired with Shri S. R. Patil. At that time, Shri Patil orally told that CSE had receiving money from him. When enquired with Mr. Ullal, he informed that earlier he had borrowed the money. From the defence side DEX-1, letter dated 13-9-95 of Shri S. R. Patil is the document to disprove the allegation. DEX-1 has been identified by Management witness and hence I have no hesitation in accepting the genuinity of the signature. However, this letter has been obtained by CSE after the discussion of Shri S. R. Patil with MW1 and MW2 as mentioned earlier. Hence it appears that the letter is obtained as an afterthought. Moreover the author of the letter has not been produced by the defence for cross examination elucidation of further information. I cannot accept the defence contention that Management should have produced Shri S. R. Patil as witness as it is the sole discretion of the parties to produce their witnesses. Moreover, the entry of Rs. 5000 in the SB pass book is in the hand writing of Shri S.R. Ullal as per the deposition of MW1, MW2 and MW3. This corroborates the allegation that the CSE has made the entries in Pass Book to make believe Shri S.R. Patil the amount taken from him has been repaid. Hence, I answer the issue No. 1 positively.

Issue No. 2 : Whether Mr. Srikara Ullal made an entry on 6-4-92 in the pass book of SB account No. 2908 of Shri S. R. Patil for Rs. 5000 with the narration “By cash/Ullal” without actually depositing the cash to make believe Mr. S. R. Patil that the repaid the loan obtained earlier.

MW-1 has deposed that he noted an entry of Rs. 5000 on 6-4-92 on credit side of the Pass Book with particulars “Cash/Ullal” showing the balance on the day as Rs. 56,974.74. This is seen in MEX-2, the pass book produced. He has also mentioned that corresponding entries are not available in the Officer's Scroll and Cashier's Scroll (MEX-4 and MEX-5), MEX-5, SB ledger Sheet shows a balance of Rs. 51,974.74 whereas the pass book shows Rs. 56,974.74. The Defence has not dislodged this fact brought out in the enquiry.

MW-3, the then Manager of the branch has deposed that he obtained the pass book from the customer by giving a duplicate. He has also received the letter MEX-15 of CSE admitting that CSE has made a wrong entry in the account No. 2908 of Shri S. R. Patil. That goes to prove that the entry in Pass Book is not backed by any entry in the ledger.

MW-1 has also deposed that he had verified the available hand writings of Shri Ullal and satisfied that the handwriting are of Shri Ullal only. The defence has in cross examination brought out that the pass book is the property of the customer. However, the Manager has informed that he had obtained the pass book from the customer by giving him a duplicate. Since the contents of the letter of Shri S. R. Patil is contradicting the facts brought out in the enquiry, I cannot agree with the defence contention that the pass book has been stolen by the MW3 from Shri S.R. Patil. The defence has in the arguments interpreted the word “noted” as writing and accused MW1 having written the pass book entry. However, on reading the deposition I understand that MW1, meant “to have noticed” by word “noted” and not “Written” as contended by DR. Therefore, I cannot agree with the defence contentions in this regard. Moreover, though MW1 is not an handwriting expert, he has categorically confirmed the writings in pass book on 6-4-92 as that of Shri Ullal after verifying with available records and other staff and this goes unrebutted. Further, special Asst. Mr. Tlgadi has also categorically stated while answering MQ2 that the entry in MEX-2 (Pass Book) is in the hand writing of Shri Ullal only. Therefore, I answer this issue positively.

Issue No. 3 :—Whether he made a fictitious entry on 8-4-92 for Rs. 5000/- in ledger sheet of SB account No. 2908 pertaining to Shri S.R. Patil without actually receiving the cash.

MW-1. Deposited that while verification of ledger sheet of SB No. 2908 a cash entry of Rs. 5000/- as on 8-4-92 was found and the SB balance was Rs. 56,974.79. When Officers scroll and cashiers scroll of 8-4-92 was verified, no such entry was found. The

statement of MW1 is substantiated by the documents MEX-3, MEX-6 and MEX-7 produced in the enquiry. When questioned by MR, the MW1 informed that from the figure work and writings he says that the entry as on 8-4-92 in ledger sheet of SB Account No. 2908 was done by Shri Ullal. MW2 the Special Asst. of the branch also has deposed that the above said entry of Rs. 5000 on 8-4-92 in ledger sheet of SB account No. 2908 was done by Ullal only. To MQ-22, he answered saying that Shri Ullal had told that he (CSE) made the entry of Rs. 5000 in SB account No. 2908 of Shri S.R. Patil showing the ledger sheet. MW3 the then Manager Mr. Havanoor deposed that when he called Mr. Ullal to his cabin and enquired about the above said entry, Shri Ullal confessed that he (Ullal) had made the fictitious entry. All the three witnesses are corroborating each other and hence I have no hesitation in accepting the same. The defence contention that MW1 is unable to say who had initialled the entry of 8-4-92 in no way alters the position. Therefore, the position revealed in the enquiry is that the entry dated 8-4-92 for Rs. 5000/- in ledger sheet of SB Account No. 2908 is a fictitious entry and is made by Shri S.R. Ullal and that no corresponding cash was received by the bank on that day. I answer the issue accordingly.

Issue No. 4 : Whether the CSE manipulated Bank records by altering the figures in SB balancing and Subday sheets to tally SB balancing. MW1 the investigating officer deposed that alterations were made in the balancing book to cover up the fictitious entry in SB Account No. 2908. He has narrated the various alterations in balancing books in his deposition as already reproduced by me in Page No. 4 of this report. MW2 who was the Supervisor assigned with the job of tallying SB account has deposed that the balancing of 31-3-93, 8-6-93 and 29-7-93 were extracted by Shri Ullal and page totals of individual columns of the balancing as on 23-2-94, 31-3-94 and 8-6-94 are in the columns of the balancing as on 23-2-94, 31-3-94 and 8-6-94 are in the handwriting of Shri Ullal. However, the correct totals beneath are put by MW2 himself while tallying. In page 172 if MEX-10 the balance has been wrongly carried over as Rs. 55013.04 instead of Rs. 60013.04 which was correctly put by another clerk. MW1 has deposed that he has satisfied himself that all the alterations/manipulations was deposed by him are made in the handwriting of CSE which he got confirmed from the Manager and other staff members. The various questions posed by DR and the suggestions made by DR have not been able to dislodge the statement of the MW1 as above. The writings and figure work in respect of all the alleged entries/totals are confirmed as that of CSE by MW1 and MW2. Moreover, the assertions made by MW1 and MW2 are supported by the documents produced i.e. MEX-8 and MEX 10 where the manipulations are visible. Hence, my findings in this regard are as under:—

1. That the altered balancing figure in respect of SB Account No. 2869 as on 31-3-1993 in the balancing book as 24,758.60 instead of Rs. 29,758.60.
2. That he totalled page total as on 8-6-93 in the backside of page No. 22 as 79,888.21 instead of 84,888.21.
3. That he totalled the backside of page no. 22 as on 29-7-93 as 78757.01 as against the actual total of 83757.01.
4. That he altered the balancing figure in respect of SB Account No. 2887 as on 23-2-94, by altering the digit "5" into "0" with Pencil thereby altered the actual balancing figure of 35055.35 to 30053.53. Consequently, he also totalled the balancing figure as 1,03,652.15 instead of 1,08,652.15 as on 23-2-1994 on the reverse of page No. 27 of the balancing book.
5. That he totalled the reverse of page No. 27 as on 31-3-94 as 1,73,899.72 instead of 1,78,899.72.
6. That he totalled the page total on the reverse of page No. 27 as on 8-6-94 as 40,949.72 instead of 45,949.72.

10. Therefore, on close scrutiny of the oral and documentary evidence produced by the management before the Enquiry Officer which has been dealt with very exhaustively and elaborately by the Enquiry Officer in recording the findings of guilt against the workman, the arguments advanced by the first party that there was no sufficient and legal evidence to be found basis of the proof of the charges of misconduct levelled against him merits no consideration. The three witnesses examined by the management along with the documentary evidence were very competent and the officials holding the responsible position in the management bank. It just cannot be believed that they have come forward to foist a false and concocted case against the workman in order to get ride of his services, particularly, when there was no suggestion made on behalf of the workman to those witnesses in their cross examination attributing any motive to them to give false evidence against him except to suggest that they wanted to protect the 'class interest'. The contention raised for the workman that the said S.R. Patil in whose pass book alleged false entry of Rs. 5000 on credit side made was the competent and proper witness to be examined before the enquiry officer and that his non examination particularly in view of his letter marked during the enquiry at Ex. D1 in support of the defence of the workman must be a circumstance fatal to the case of the management, in my opinion against holds no water. This contention of the workman has not only been turned down rather met by the Enquiry Officer in his Enquiry findings but also by the Disciplinary Authority in the order passed by it purposing the punishment of dismissal and also by the Appellate Authority on the appeal preferred by the workman against the said dismissal order. They have rightly

observed that said S.R. Patil was not a complainant and there was no reason for him to make a complaint against the workman as he was apparently satisfied with the credit entry of Rs. 5000/- made in his pass book. It was well argued for the management that the manipulation of the records by the workman including the balance sheet and the ledger sheet when came to the light of MW2, the verification of the records on further scrutiny disclosed that he manipulated and altered the records so as to give an impression that an amount of Rs. 5000/- was credited by the said S.R. Patil and thereafter it was taken into account of the bank. Therefore, as argued for the management when the fraud in question came to light rather detected on the basis of the bank records, a preliminary investigation was ordered to be conducted by MW1 and during the course of investigation when the fictitious entries made by the workman were detected and a charge sheet *suo-moto* was issued by the management to the workman and that it was not necessary for the management to wait for any complaint from the above said Patil. Therefore, when the S.R. Patil was not the complainant or the person aggrieved and his statement was also not relied upon by the Enquiry Officer said to have been recorded the MW1 during the course of investigation it was incumbent on the part of the management to have produced him as their witness. It is of course on record that a letter at Ex. D1 dated 13-9-95 was produced by the workman during the enquiry, received by him from S.R. Patil, copy of which being marked to the management wherein he was to disclose that the workman did not obtain a loan of Rs. 5000/- from him at any time and that he made no such credit entry in his pass book. Only because such a letter was written by Shri Patil to the first party workman and was produced before the enquiry officer, it was not necessary on the part of the management to have summoned him as their witness. It was for the workman, as was rightly observed the Enquiry Officer to have summoned the said S.R. Patil as his witness so as to support his defence. Nothing prevented the workman to have produced the said witness during the course of enquiry if really there was any truth in the contents of the said letter written by said Patil. Therefore, when Patil was not produced as witness on behalf of the workman, then no fault can be had with Enquiry Officer in not acting upon the said letter and it cannot be said that he was wrong in holding that the letter was an act of workman in bringing some evidence on record by the workman so as to overcome the charges levelled against him. On a perusal of the oral and documentary evidence and the reasonings rendered by the Enquiry Officer in submitting his enquiry report holding the workman guilty of charges, by no stretch of imagination it can be said that it was a case lacking sufficient and legal evidence to establish the charges of misconduct against the workman particularly when the evidence on record was supported by letter dated 29-3-95 written by the

workman admitting the guilt in no uncertain terms followed by reimbursement of the above said misappropriated amount of Rs. 5000 along with interest amount of Rs. 3000 and odd. The contention of the workman that he had to give such a letter admitting the guilt under the force and coercion brought on him by MW1 to MW3, in my opinion has no basis particularly when he made good of the amount misappropriated along with interest amount for the relevant period. In the result I must hold that charges of misconduct levelled against the workman except the charge of tampering of the records has not been established and therefore, he is guilty of the misconduct of fraud and misconduct committed by him as alleged in the charge sheet.

11. Now coming to the question of punishment, according to the first party workman, it was on higher side keeping in view the gravity of the misconduct committed by him. His contention was that the offence is said to have been taken place on 6-4-92 and whereas the charge sheet was issued against him after a gap of more than 3 years on 15-7-95. His next contention was not after the enquiry was concluded on 10-6-97, enquiry report was submitted on 15-12-97 and punishment order actually was passed against him on 30-3-98 i.e., after a lapse of period of more than 6 years from the alleged date of misconduct committed by him and therefore, it was not a case of imposing the extreme punishment of dismissal. I find substance in the above said contention, rather, the submission made on behalf of the workman. Undisputedly the offence is alleged to have been taken place on 6-4-92 by making a false credit entry of Rs. 5000/- in the pass book of said Patil and whereas the charge sheet came to be issued against the first party in the month of July, 1995. As could be seen from the proceedings of enquiry, it came to be concluded on 10-6-97 and whereas, the Enquiry Officer took a period of about 6 month to submit his enquiry report on 15-12-97 and the dismissal came to be passed on 30-3-98. There was no plausible explanation offered on behalf of the management about the aforesaid inordinate delay in issuing the charge sheet against the workman after a lapse of a period of 3 years and the enquiry officer submitting his enquiry report and after a gap of about 6 months from the date of conclusion of the enquiry. The other mitigating circumstance to be weighed in favour of the workman not to sustain the extreme punishment of dismissal is the observation made by the Enquiry Officer himself in the last but one para of his enquiry report on page 14, wherein he recorded the finding to the effect that there was no loss sustained to the bank in the transaction. Therefore, keeping in view the above mitigating circumstances, it appears to me that ends of justice will be met if the punishment of dismissal is replaced with the punishment of termination of services, so that the workman could get his terminal benefits. Accordingly, the reference is answered and the following award is passed.

AWARD

The punishment of dismissal awarded against the workman is hereby replaced with the termination of his service from the date of the above said punishment order. He shall be entitled to the terminal benefits in accordance with law.

(Dictated to PA transcribed by her corrected and signed by me on 8th February, 2005)

A.R. SIDDIQUI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2005

का.आ. 1056.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार देना बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम्यावालय बंगलौर के पंचाट (संदर्भ संख्या 96/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-02-2005 को प्राप्त हुआ था।

[स. एल-12012/11/1998-आई आर (बी.-II)]

सौ. गंगाधरण, अवर सचिव

New Delhi, the 22nd February, 2005

S.O. 1056.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 96/1998) of the Central Government Industrial Tribunal-cum-Labour Court Bangalore as shown in the Annexure, in the Industrial Dispute between management of Dena Bank and their workman, which was received by the Central Government on 21-02-2005.

[No. L-12012/11/1998-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT**

“SHRAM SADAN”,

**III MAIN, III CROSS, II PHASE, TUMKUR ROAD,
YESHWANTHPUR, BANGLORE-560 022**

Dated : 10th February, 2005

PRESENT:

Shri A. R. SIDDIQUI, Presiding Officer.

C.R. No. 96/98

I Party

Shri A. S. Anandarayyan
Samuel, C/o Sampath Raj,
No. 1, Narayanappa Block,
3rd Cross, R.T. Nagar,
Post Gangenahalli,
BANGALORE-560 032

II Party

The Regional Authority,
Dena Bank,
Sona Towers,
71, Millers Road,
BANGALORE-560 052

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/11/98/IR (B-II) dated 3rd November 1998 dated for adjudication on the following schedule :

SCHEDULE

“Is the management of Dena Bank justified in terminating the services of Shri A.S. Anandarayyan Samuel, If not, to what relief the said workman is entitled ??”

2. The case of the first party workman as made out in the Claim Statement in challenging the order of the management in terminating his services is as under :

That the first party workman joined the services of the second party management during December 1971 and was working as Driver at Regional Office, Bangalore till November 1992. The first party workman had requested for transfer to New Delhi regional office and considering the same, the second party management posted him to New Delhi regional office in November 1992. While, the first party workman was working as Sub staff at New Delhi, he fell severely ill and since there was nobody to look after him at New Delhi, he had to return to Bangalore to be under the care of his family. The first party workman was taking prolonged treatment for his ailment and regularly sent medical certificates for his absence. Meanwhile, the first party workman also requested transfer to Bangalore for health reasons. After prolonged illness the first party workman reported at New Delhi regional office and to his utter dismay, he was issued with transfer order to Kota branch, Rajasthan due to ill will of the then Asst. General Manager, New Delhi Region. The first party workman has pleaded for cancellation of the order and posting him at New Delhi itself and subsequently to transfer him to Bangalore due to his health conditions. Normally, employees are not transferred by the management interstate but he was singled out. As the request of the first party workman was not considered, he reported at Kota, Rajasthan in October 1994. After working for few months, he again fell ill and this time it was very serious due to extreme weather conditions. His family members took him back of Bangalore for treatment. The first party workman used to send medical certificates regularly to the second party management and also requested for considering his transfer to Bangalore on sympathetic grounds. He has rendered his services honestly, diligently and in the best interest of the bank. His entire service record is without any blemish; that in the month of May 1996, the first party workman was informed by his friends and well wishers that the second party management had issued a notice in the local daily ‘Decan Herald’ dated 17-5-1996 stating that his services will be treated as voluntarily abandoned, if he did not report at Kota. Immediately, the first party workman has tried to explain his position but due to animosity and ill-will he was never allowed to speak. Finally, the first party workman decided

to proceed to New Delhi in March 1997 and approached the Personnel Manager at Regional Office to explain his position. But, to his utter surprise, the said Personnel Manager abused him and threatened throwing him out physically, if he tried to meet the Deputy General Manager presently heading the region. Then, left with no choice, the first party workman has submitted a request letter dated 25-3-97 and came to Bangalore. The first party workman has not received any reply so far or any final order subsequent to the notice treating as voluntary abandonment of services. It is submitted that the second party management was giving assurances of reinstatement and finally failed to keep their words. Under such circumstances, the first party workman was forced to raise an industrial dispute before the jurisdictional conciliation officer, which has resulted in this reference. Added to this, during this period, the first party workman was also facing great hardship and suffering from mental agony having no means of livelihood. Hence, the same is attributable to the management only; that the first party workman is a poor man without sufficient education. He has two grown up daughters and he is already aged 53 years. He belongs to minority Christian Community. He does not know English very well excepting signing in English. The mother tongue is Tamil and he cannot read English newspaper. The second party management has chosen to publish the notice in English which language he does not know properly. The aim and objective of the management is only to throw him out of the bank. The ill will of the management is such that while working at New Delhi pension scheme was introduced seeking option from all the existing employees. The management did not give any option form to the first party workman. However, the first party workman has sent a letter in December 1995 to Kota Branch exercising his option for pension; that the action of the second party management in terminating the services of the first party workman assuming that the first party workman has voluntarily abandoned his services is unfair, unjust. The Second Party management has failed to conduct any enquiry whatsoever as required under the principles of natural justice and fair play. Added to that, the mandatory notice of one month as required under the bipartite settlement is not given to the first party workman before termination. Hence, the same is not sustainable in law. The first party workman has not shown any conduct at any time to enable the second party management to infer abandonment. The first party workman has submitted the medical certificates for the periods in question. The first party workman is not anywhere employed and still interested to report to the duties and earn his wages.

The action of the second party management being otherwise for misconduct tantamounts to retrenchment as defined under Section 2(00) of the Industrial Disputes Act, 1947, for which, the second party management has not complied with the mandatory requirements under Section 25F clauses (a) and (b) of the Industrial Disputes Act, 1947 which are the conditions precedent for retrenchment. The action of the second party management is also in violation of Section 25N of the Industrial Disputes Act, 1947 and also against to the provisions of Section 25G, H of the Industrial Disputes Act, 1947.

That the action of the second party management is a clear case of unfair labour practice and an act of victimization which is not sustainable in law.

That due to the illegal and arbitrary action of the second party management, the first workman is facing great hardship and himself and his family members are suffering from mental agony having no means of livelihood.

Even agreeing for the sake of arguments that the first party workman is guilty of the alleged charges levelled against him without admitting the same, the punishment imposed on him is most dis-proportionate to the gravity of the alleged acts of misconduct. Hence, this tribunal has got power and jurisdiction under Section 11A of the Industrial Disputes Act, 1947 to interfere with and set aside the order of termination passed by the second party management.

In any view of the matter, the action of the second party management is not sustainable both on facts and in law.

3. Whereas, the case of the Second Party management vide their Counter Statement is as follows :

The Govt. of India, vide its order of reference bearing number 1-2012/11/98/IR (B-II) dated 6-11-1998 has referred the following points of reference to this court of Industrial Tribunal for adjudication i.e. "Whether the action of the second party management i.e. Dena Bank in terminating the services of Shri A.S. Anatarayana Samuel is justified, if not ? To what relief is the said workman is entitled to ?"

It is submitted that the Second Party is a body corporate constituted under the provisions of Banking Companies (Acquisition and Transfer of undertaking) Act, 1980. It is having 1167 branches all over the country manned by able and skilled staff.

The bank has made considerable progress due to the honest and indefatigable effort, good management and with the cooperation of the employees. Being a Banking institution, a high degree of honesty, integrity, devotion to the duty, promptness in discharging its duties and high sense of discipline are invariably required for the Bank employees; that the first party while working at Dena Bank, remained chronically absent. We give herein below the details of the unauthorized details of Shri A.S. Anandarayana Samuel as per our record.

Year	Period	No. of days
1980	June to September	32
1990-91	July to April 91	84
1992-93	April 1992 to December 1993	608
1994-96	December 1994 to May 1996	601

The action taken by the Bank in respect of his unauthorized absenteeism is detailed below :

- (a) For his unauthorized absence in the year 1980 a show-cause notice dated 4-11-1980 was issued. His explanation dated 18-11-1980 was found to be not satisfactory and a charge sheet dated 8-12-1980 was issued. Since his explanation dated 22-12-1980 to the above charge sheet was not satisfactory and the enquiry was conducted wherein, Shri Samuel pleaded guilty. The management took lenient view in the matter and he was Cautioned.
- (b) Other charge sheet 27-11-1990 was issued to him for remaining absent without leave from 4-10-90 onwards. His explanation dated 25-3-1991 was not satisfactory and enquiry was conducted. Here again he pleaded guilty and prayed for taking lenient view in the matter. He was issued an order of warning vide letter dated 16-11-1991.
- (c) A charge sheet dated 5-4-1991 was issued to the first party for his absence for 84 days from July 1990 to April 1991 besides there were other charges in the same charge sheet like disobedience of lawful order of the superiors. His reply dated 27-4-91 to the above charge sheet was not satisfactory and enquiry was conducted in the matter. All the charges were proved against the first party. He was censured vide order dated 16-11-1991.
- (d) On his request he was transferred to New Delhi Regional Office and reported for duty at New Delhi Region on 18-11-1991.
- (e) Shri Samuel did not attend duty from 15-4-1992. He was given a notice dated 20-10-1993, in terms of para 17 of fourth Bipartite Settlement. After waiting for one month from the date of receipt of above notice the name of Shri Samuel was removed from the muster roll on 14-12-1993 as he failed to resume duties. However, on his representation he was permitted to rejoin duties on humanitarian ground.

Vide order dated 10-10-1994 Shri Samuel was transferred to Kota Branch in New Delhi Region. He reported at Kota Branch on 11-10-1994. Later from his residence at Ganganahalli extension, Bangalore in letter dated 30-9-94, he requested the Regional Manager, Dena Bank, New Delhi Regional Office acknowledging a letter No. NDR/PER/3877/94/94 dated 28-5-94. In the said letter the first party was directed to report to duty. The first party stated that he would report for duty within a month. He also requested to reconsider transfer to Bangalore. However, he failed to stand by his assurance in letter dated 30-9-1994 and continued to remain absent from duties. Thereafter with effect from 31-12-1994 Shri Samuel remained unauthorisedly absent from Kota Branch. This goes to prove the chronic nature of Shri Samuel to remain absent wherever he is posted. The above mentioned letter directing him to report to duty failed to bring any perceptible change in him despite

so many oral and written instructions apart from the above mentioned letters. His attitude creates an impression that he is no more interested in the employment of the bank.

In accordance with the provision of the para 17(a) of the Bipartite Settlement, the bank published a notice in the local newspaper in Bangalore i.e. in Deccan Herald and prajawani calling upon Shri Samuel to report for duties at Kota Branch within seven days of publication of the said notice with sufficient explanation for his unauthorized absence failing which it will be presumed that Shri Samuel has voluntary abandoned his service and that his name shall be struck off from the muster roll of the bank and therefore, he ceased to be in the employment of the bank w.e.f. 15-5-1996 as per the provision of the Bipartite Settlement.

As the first party continued to remain absent and did not comply with the provisions of 17(a) of Bipartite Settlement, the name has been struck off from the muster roll of the bank; That the action of the Second party i.e. Dena Bank, Bangalore in removing the first party from the services as having voluntary abandonment is legal and proper and justified. the removal is proportionate to the acts of Shri A. S. Anandarayyan Samuel in accordance with the clause 17 of the Bipartite Settlement.

The averments made in this para is denied and first party is put to strict proof to establish them to save those that are admitted herein. The Second Party denies that the services maintained by the first party is clean and excellent one.

The averments made in the para 4,5,6,7,8,9,10,11 and 12 are denied and first party is put to strict proof to establish them.

In action of the Second Party Management is sustainable both in facts and in law. Management therefore, requested the court to reject the reference.

4. Now therefore, in the light of the above, the points to be decided by this tribunal would be “Whether the Management was justified in terminating the services of the first party ? If not to what relief the first party is entitled to” ?

5. During the course of trial, the management examined one witness as MW1 and got marked 19 documents at Ex. M1 to M 19. Whereas, the first party filed an affidavit by way of his evidence (his examination Chief) and his further examination chief got marked in all 29 documents as Ex. W1 to W 29.

6. Ex. M 1 is the letter/notice dated 28-5-94 said to be issued to the first party calling upon him to join the duty on 20-6-94 or else it would be deemed that he had no intention to join duty and accordingly as voluntarily abandoned the services of the bank. Ex. M2 is the letter dated 30-9-94 by the first party to the management seeking transfer to Bangalore. Document i.e. the letter dated 16-6-97 once again marked as Ex. M22 (appears through oversight) addressed to the ALCB, Bangalore, seeking conciliation of this dispute. Ex. M3 is the letter dated 25-3-97 by the first party to the management to reconsider his request for transfer to Bangalore. Ex. M4 is the letter

dated 13-11-93 written by the Regional Manager to settle the terminal dues of the first party if he does not report for duty. Ex. M5 is the letter dated 8-11-93 from the bank to the first party asking him to immediately report for duty alongwith medical certificates or else he will be deemed to have abandoned his services. Ex. M6 is the letter dated 20-10-93 once again calling upon the first party to report for duty. Ex. M7 is the memorandum dated 16-11-91 holding the workman guilty of misconduct of unauthorized absence vide charge sheet dated 5-4-91. Ex. M8 is the letter dated 3-10-91 by the first party to the management seeking time to report his duty on his transfer to New Delhi regional office. Ex. M9 is the letter dated 31-10-91 relieving the First Party from his duty at Bangalore so as to enable him to report his duty to the regional office at New Delhi. Ex. M10 is the letter dated 30-11-91 addressed to the Branch Manager, Dena Bank, Bangalore to relieve the First Party immediately to report duty at New Delhi Region. Ex. M11 is the letter dated 10-10-94 transferring the First Party to the Kota Branch of the management with immediate effect. Ex. M12 is the letter dated 20-5-91 by the First Party requesting the management to transfer him to New Delhi region. Ex. M13 is the letter dated 19-6-95 is said to be the reply given by the management in response to the letter dated 2-5-95 written by the First Party. Ex. M14 is the letter dated 24-9-91 to the First Party by the management with reference to his application seeking transfer to New Delhi region. Ex. M15 is the letter of the First Party addressed to Regional Manager, Bangalore seeking transfer to New Delhi. Ex. M16 is the letter dated 3-10-91 by the First Party to the management to relieve him during the last week of November, 1991 on his transfer to New Delhi Region. Ex. M17 is the letter dated 31-10-91 by the Management to the First Party relieving him from the Bangalore Branch on his transfer to Delhi. Ex. M18 is the extract of attendance register and Ex. M19 series are the Muster rolls.

7. Ex. W1 is the admission sheet from Bowring Hospital dated 29-4-92. Ex. W2 is the medical certificate from Government clinic, New Delhi. Ex. W3 is the endorsement from Bowring Hospital dated 29-4-92. Ex. W4 is the medical admission slip dated 1-5-96. Ex. W5 is the certificate issued by the Victoria Hospital dated 16-6-96. Ex. W6 is the admission slip from Geetha Nursing Home. Ex. W7 is the prescription slip by the said nursing home. Ex. W8 is the medical bill from the said nursing home. Ex. W9 is another said bill so also the Ex. W10. Ex. W11 is the prescription slip dated 20-7-1998 from Dr. Gulabchand H. Shah. Ex. W12 is a certificate issued by Dr. A. Venkatesh on 20-4-99 certifying that the workman was under treatment while working at Dena Bank, Kota Branch, Rajasthan. W13 is the certified xerox copy of Ex. W5. Ex. W14 is the letter by the workman to the Regional Manager Bangalore to transfer him to RT Nagar Branch, Bangalore before he reports duty to Regional Office, New Delhi dated 24-6-91. Ex. 15 is another letter dated 25-3-97 by the workman to the Dy. General Manager, New Delhi to transfer him to Bangalore. Ex. W16 is the paper cutting of publication of the notice dated 8-5-96 on

behalf of the management in terms of para 19.5 (1) of 6th Bipartite Settlement calling upon the workman to be present at their Kota Branch with sufficient explanation for his absence from duty within 7 days or else it will be taken that he had voluntarily abandoned the services of the Bank. Ex. W17 is the letter by the workman to the Chairman and Managing Director, Bombay to reconsider his request from Kota branch to Bangalore. It is dated 10-5-96. Ex. W18 is the letter from the wife of the workman dated 1-4-96 to the said authority to consider his request of transfer to Bangalore. Ex. W20 is the copy of the letter (not signed) dated 2-5-95 written to the said Chairman and Managing Director, Bombay by the workman through Shri Lokesh Mishra (DBE) General Secretary, Dena Bank, Jaipur, Rajasthan seeking transfer from Delhi to Bangalore. Ex. W21 is the letter from Lok Sabha Secretariat forwarding the representation of the workman dated 31-3-97 to the Ministry/Department of Finance (Bank Division) Dena Bank Bangalore. Ex. W21 is the letter from the Management dated 25-11-94 written to the then Dy. Speaker, Lok Sabha stating that the case of the workman would be considered as and when vacancy arose. W22 is the letter from the above said Dy. Speaker to the Management to consider the case of the workman for his transfer to Bangalore. Ex. W23 is the letter by the workman to the Dy. General Manager, Dena Bank, Delhi seeking transfer to Bangalore. Ex. W24 is the letter dated 25-12-93 by the wife of the workman to the Director General of Police, New Delhi to consider the case of her husband for transfer. Ex. W25 is the letter from the workman to the Regional Manager, New Delhi dated 21-12-93 seeking transfer to Bangalore. Ex. W26 is a letter from M. Ramamurthy MP, Rajya Sabha dated 18-3-97 to the Chairman and MD, Dena Bank, Bombay to consider the representation of the workman for transfer. Ex. W27 is the letter to the said Chairman dated 19-8-97 from Ananth Kumar, the then MP of Lok Sabha, Bangalore. Ex. W28 is the Xerox copy of circular dated 22-9-88 about the transfer policy for award staff. Ex. W29 is the extract of para 535 and 536 of Sastry Award.

I would like to refer and discuss the oral testimony of MW 1 as well as WW 1 as and when found relevant and necessary. Learned counsel for the First party Shri Muralidhar in his oral as well as Written Argument vehemently contended that the First party had made repeated pleas about his ill health and requested for transfer to Bangalore making his intention clear that he wanted to continue in the job and the documents marked before this tribunal, EX. M2, M12, W17, W18, And W20 to W 27 would indicate his intention to continue in the job. Therefore, question of first party joining the job does not arise and in the result the management notice at Ex. W16 refers to Supra to strike off his name from the roll was illegal and uncalled for Learned counsel while referring to the memorandum of settlement dated 8-9-83, 17-9-84 and 10-4-89 brought to the notice of this tribunal the relevant provisions rather, the terms of those settlement on the point as to what proper action is necessary on the part of the management in case its

employee remained absent unauthorisedly for a period of more than 90 days and contended that the notice at Ex. W 16 is not consonance with the above said provisions of law and therefore, is liable to be struck down. He submitted that as per the Bipartite Settlement dated 14-2-95 a provision was made as to the effect that unauthorized absence without intimation continuously for a period exceeding 90 days would amount to gross misconduct but there was no change with regard to settlement dated 10-4-89 relating to voluntary Cessation of employment by the employees. He contended that in the Bipartite Settlement dated 27-3-2000, Clause 17 of the 5th Bipartite Settlement dated 10-3-99 came to be deleted and therefore, on the date when notice at Ex W16 was issued to the first party workman was very much governed by the Settlement dated 10-4-89 as well as 14-2-95. He contended that there was no action taken against the workman as per the above settlement dated 10-4-89 which required a notice to the workman to report duty within 30 days in case he remained unauthorisedly absent for a period of 90 days or more continuously so as to assume that he voluntary retired from the service of the bank on the expiry of the said notice. He submitted that as per para 19.5 (P) of the settlement dated 19-6-95 when the unauthorised absence was treated as gross misconduct, the only recourse available with the management to remove the workman from service was by way of conducting a regular domestic enquiry giving opportunity of hearing to the workman. As far as the case of abandonment is concerned as per publication made by the management as per the paper notice at Ex. W 16, learned counsel submitted that undisputedly the management has not paid any compensation amount to the workman in terms of Section 25F of the I.D. Act, and therefore, termination of the services of the workman on the ground of abandonment shall amount to retrenchment under Section 2 (oo) of the I.D. Act and since the compliance of Section 25F of the I.D. Act, the termination amounts to illegal retrenchment and therefore, is liable to be set aside at the hands of this tribunal. In support of his argument that in case of misconduct a regular Domestic Enquiry was warranted. Learned counsel relied upon the following citations :—

1. 1978-I LLJ-Page 1 (SC)
2. 1981-II LLJ-Page 70 (SC)
3. 1982-I LLJ-Page 330 (SC)
4. 1983-I LLJ-Page 337
5. 1994-I LLJ-Page 370 (ALL)
6. 1982-II LLJ-Page 64 (Cal)
7. 1994 LLR-Page 538 (Raj)
8. 1993-I LLR-Page 599 (Raj)
9. 1997-III LLJ-1099 (P&H)
10. 1993 LLRI39 (ALL)
11. 1994-III LLJ 327 (MP)
12. 1994 LLR 897 (MP)
13. 1995-II LLJ-356 (P&H)

9. To support his arguments that termination of the services of the workman on the ground of abandonment without the compliance of Section 25F of I.D. Act amounts to retrenchment, the learned counsel cited the following decisions:—

1. AIR 1986 Supreme Court 132
2. AIR 2004 SC 291
3. AIR 1998 SC 1681

10. Whereas, the learned counsel for the second Party Shri Sheriff with equal vehemence argued that the case on hand was a case of voluntary abandonment of services by the workman in compliance of clause 17 of Settlement dated 10-4-89. He submitted that the workman undisputedly remained unauthorisedly absent from duty for a period of 90 days and more and failed to report duty despite the notice dated 28-5-94 issued to him under the above said clause 17 of the settlement and therefore, now he cannot make any grievance for non-compliance of above said clause before terminating his services in pursuance to the above said paper notice issued by the management at Ex. W 16 he contended that the workman remained unauthorisedly absent from duty contending that he was not keeping well but failed to produce any medical evidence to the above fact despite the opportunity given to him by way of the notice at Ex. M1 and notice at Ex. W 16. Therefore, now the workman cannot be allowed to say that he did not abandoned his services or that he remained absent unauthorisedly from duty on medical ground so as to challenge the order terminating his services taking the help of the provisions of clause 17 of the aforesaid settlement dated 10-4-89 and the provisions of settlement dated 14-2-95, where under unauthorized absence from duty without intimation continuously for a period exceeding 30 days was treated as an act of "gross misconduct". He contended that provision of Clause 19.5 in the notice at Ex. W 16 has been wrongly quoted in place of clause 17 of the aforesaid Bipartite settlement and therefore, it may be read as Clause 17 itself. In support of his argument, learned counsel relied upon the following citations :—

1. 2000 (5) SCC 65
2. 2001 (I) SCC 214
3. 2002(III) LLJ-1023
4. 2002(III) LLJ-1016 (AP)
5. 1999 (I) LLJ-1028

11. Learned counsel for the first party in his reply argument submitted that documents at Ex. M 13 & W20 would make it abundantly clear that the management treated the case of the workman as a case of unauthorized absence amounting to "gross misconduct" contemplating necessary disciplinary action against the workman but no such action was taken by conducting any regular enquiry and therefore, no occasion arose for the workman to establish his case of ill health and remaining absent from duty on medical ground.

12. As noted above, it is the case of the Second Party that the workman remained unauthorisedly absent from duty from 31-12-94 without getting the leave sanctioned much less on medical ground and the fact that he has no acknowledgement to show that any medical certificate or document showing him undergoing any medical treatment was produced before the management, as in his affidavit he admitted that he has no acknowledgement of production of any medical evidence before the management. It is also not the case of the workman that he remained absent from duty by applying for leave or getting the leave sanctioned or that leave applied by him was refused at any point of time. Now therefore, let us proceed on the assumption that it was a case of unauthorized absence. As, argued for the workman, in a case of unauthorized absence, the management had two options; it could have taken against the workman treating the unauthorized absence as 'Gross misconduct', as provided under the Bipartite Settlement taken place on 14-2-1995, wherein an unauthorized absence for a period exceeding 30 days was treated to be an act of "Gross Misconduct" or else the management could have taken action against the workman as per Clause 17 of 5th Bipartite Settlement dated 10-4-89 which was very much in force till the above said clause was deleted as per the settlement dated 27-3-2000.

13. Learned counsel for the first party took the court through the letter at Ex. M 13 marked on behalf of the management before this tribunal to substantiate his contention that as per the wordings of the said letter, the management has treated the absence of the workman as an unauthorized absence *vide* para 16 of 4th Bipartite Settlement in terms of Clause 19.5 (P) and in the light of clause 16 of the said settlement (clause 17 as per the 5th Bipartite settlement), when the employee remained absent unauthorisedly without intimation for a period exceeding of 30 days. On going through the above said letter I find substance in his arguments.

14. Para 2 of the said letter reads as under :—

"In terms of Para 16 of 4th Bipartite Settlement and in terms of para 19.5(P) i.e. remaining unauthorisedly absent without intimation continuously for a period exceeding 30 days shall amounts to a 'gross misconduct'."

15. Therefore, the learned counsel argued that when the management has treated the case of unauthorized absence of the workman a 'Gross Misconduct', in the light of the above said provisions of law then his name could not have been struck off from the roll unless and until an opportunity of hearing was afforded to him by way of conducting a regular and domestic enquiry. Their Lordships of Punjab and Haryana High Court while sitting as a Division Bench, in a decision reported in 1997 (II) LLJ 1099 laid down the principle that "absence from duty can at the most be held to mean to be misconduct—termination of services on ground of misconduct could not be reported to without holding an enquiry or complying with the provisions of the Act". In a decision reported in AIR 2002 SC 2914 referred to supra and stated on behalf of the

workman, their Lordships laid down the principle that "letter issued on 4th day of leave cannot be treated as an opportunity of hearing to employee and that there was a violation of principles of natural justice." Their Lordships in decision reported in AIR 1998 SC 1681 held that "termination of services of the workman by mere issuing a letter on the ground of over staying of leave as per the standing orders without compliance with other legal requirements amounts to retrenchment under Section 2(oo) of the ID Act." Their Lordships also observed in the above said case, certified standing orders of the management providing a clause for automatic termination of service of permanent employee is invalid and that opportunity of hearing to the delinquent employee was necessary. Therefore, in the instant case when undisputedly the workman was a permanent employee and alleged to have committed a gross misconduct in remaining absent from duty unauthorisedly under the above said provisions of law, it was incumbent on the part of the management to have given opportunity of hearing to the workman by conducting a regular Domestic Enquiry so that he could have established his defence to show that he remained absent from duty not unauthorisedly but for valid ground such as on 'medical grounds'. In this case after having issued the aforesaid notice at Ex. M 13 undisputedly, the management has not taken any further action much less conducting any regular enquiry giving opportunity of hearing to the workman to meet the charges of unauthorized absence levelled against him. Therefore, as contended for the first party striking off his name from the roll affording no opportunity of hearing by conducting a regular Domestic Enquiry appears to be well based under the facts and circumstances of the case.

16. Now, it is the case of the Second Party that it has acted under Clause 17 of the 5th Bipartite Settlement which provided a case of voluntary retirement if the employee remained absent unauthorisedly, continuously for a period of 90 days and failed to explain his unauthorized absence on the expiry of 30 days notice issued to him. Learned counsel submitted that it is under the above said clause read with Clause 19.5 of the 5th Bipartite Settlement, the notice at Ex. W 16 was issued to workman giving him 7 days time to report for duty or else it will be presumed that he has abandoned his services. Therefore, learned counsel submitted that in such a case there was absolutely no necessity on the part of the management to conduct any enquiry much less any Domestic Enquiry so as to establish the charge of unauthorized absence. Learned counsel submitted that above said paper publication notice at Ex. W 16 copy of which produced by the workman himself is found mention of Para 19.5 of 6th Bipartite Settlement without mentioning Clause 17 of the 5th Bipartite Settlement.

17. Learned counsel for the first party without making any issue of omission of clause 17 in the aforesaid notice however, contended that even assuming for a moment that the notice was issued under the above said clause 17 of the said Bipartite Settlement, then, again the action of the management was bad in law as the above said notice was in contravention of the very said clause 17

of the said settlement. He submitted that as per the above said clause a notice of 30 days is contemplated and it is on the expiry of 30 days period if the workman does not turn up with any plausible explanation, the management has got a right to take it for granted that he retired from services not that he abandoned his services as noted in the said notice. I find substance in his arguments. Clause 17 provides a notice of 30 days in case the delinquent remained absent unauthorisedly for a period exceeding 90 days continuously without information to the management. It is on the expiry of 30 days of notice, the workman was supposed to report for duty with satisfactory explanation for his absence from duty. In the instant case, undisputedly, the services of the workman have come to an end on the basis of the aforesaid notice at Ex. W 16 published in the newspaper on 8-5-96. First of all it was not at all in terms of clause 17 of the said Bipartite settlement and even of a moment we assume that it was according to Clause 17, then again it being not in terms of clause 17 giving 30 days notice as contemplated therein the notice at Ex. W 16 will carry no weight in the eye of law. Moreover, as per this notice workman is assumed to have voluntarily abandoned his services not to have voluntarily retired from services as per the above said clause.

18. Learned counsel for the first party then argued that even if we proceed on the assumption that the management has treated the case of abandonment of services by the workman, then such an abandonment without the compliance of Section 25 F of the ID Act would amount to illegal retrenchment and on this count again the action of the management in striking off the name of the workman from muster roll was illegal and invalid. In this connection he took support of the principle laid down by their Lordship, Supreme Court in a decision reported in 1993 ILLJ Page 6960 SC, 1996 ILLJ page 140 SC and 1998 ILLJ Page 1165 SC as well as in a decision reported in AIR 1986 SC 132.

19. On going through the aforesaid decisions, I find substance in the arguments. In the aforesaid 'Jaishankar' case it was held that removal of a Government servant for over staying his leave, it was necessary for the management to have given opportunity before he was removed from service. In the aforesaid Uptron India Ltd case, their Lordship held that despite a certified standing order providing termination automatically under the terms of the clause 17(g), "services of the permanent employee cannot be terminated by giving 3 months notice or pay in lieu thereof or even without notice". Their lordship held that orders providing for automatic termination of the service of a permanent employee not related to production would be bad if it does not purported to provide opportunity of hearing to the employee.

20. In the instant case even it is assumed for a moment that as per clause 17 of the said settlement there can be an automatic termination of services assuming that delinquent has retired from service, the workman could not have been terminated by striking off his name without giving him opportunity of hearing as contemplated under the very said clause 17. Their Lordship of Supreme Court

in a decision reported in 1978 ILLJ SC page 1 held that striking off the name amounts to retrenchment even if the workman remained absent for 8 consecutive days as provided under the certified standing orders of the management. In a case reported in 1981 ILLJ 70 SC, their lordship held that when the case does not come under the exception to Section 2(00) of the ID Act, termination of the services of the employee amounts to retrenchment under the above said provisions of law and such a termination would be illegal. Their lordship of Supreme Court in a decision reported in the above said Robert D' Souza case held the view as under :—

"Therefore, we adopt as binding the well settled position in law that if termination of service of a workman is brought about for any reason, whatsoever, it would be retrenchment, except if the case falls within any of the excepted categories (1) termination by way of punishment inflicted pursuant to disciplinary action (2) Voluntary retirement of the workman (3) Retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in their behalf (4) Termination of the service on the ground of continued ill health. Once the case does not fall in any of the excepted categories, the termination of services even if it be according to automatic discharge from service under agreement would none the less be retrenchment within the meaning of expression in Section 2(00). It must as a corollary follow that if the name of the workman is struck off the roll that itself would constitute retrenchment as held in Delhi Cloth and General Mills Ltd's case."

21. The aforesaid principle of law would apply to the facts of the present case on all its fours. In the said case termination on the ground of abandonment does not fall in any of the excepted categories of section 2(00) of the ID Act. Here also it is a case of automatic discharge from service under the agreement rather the aforesaid settlement and there is also the case striking off the name of the workman from the muster roll of the management. Therefore, the termination on hand is certainly a retrenchment as defined under Section 2(00) of the ID Act. Undisputedly there has been no compliance of Section 25F of the ID Act preceding the retrenchment and therefore, it is an illegal retrenchment amounting to illegal termination. The principle laid down by their Lordship of Supreme Court and High Court of Andhra Pradesh in the aforesaid decisions referred to supra and cited on behalf of the Second Party, in my humble opinion could not attract to the facts of the instant case. In all these cases there was a 30 days notice issued to the delinquent concerned as contemplated under Clause 16/17 of the Bipartite Settlement. Whereas, in the instant case notice dated 28-5-94 at Ex. M1 issued under the said clause was earlier to the period of unauthorized absence of the workman, which commenced from 31-12-1994. Notice at Ex. 113 dated 19-6-95 as noted above was not at all acted upon as admittedly the workman remained on the roll of management till notice at Ex. W 16 was issued by way of publication and whereas,

the notice at Ex. W 16 as discussed above was not in accordance with clause 17 of the Bipartite Settlement, in the sense, it was not a notice of 30 days as contemplated under the said clause. Therefore, contention of the management that it was justified in removing the services of the workman by striking off his name from muster roll must fail and in the result it must be held that action of the management in removing the workman from his services is an illegal termination liable to be set aside as illegal and void-ab initio.

22. Now coming to the question of relief, the learned counsel for the workman vehemently argued that in a case of illegal retrenchment the workman must get the relief of reinstatement with all consequential benefits including the continuity of service, back wages etc. He also cited certain decisions in support of his contention. In the normal course, above said arguments of the learned counsel must have carried its due weight but in the instant case keeping in view the conduct of the workman in remaining absent from duty, the court must be slow and cautious in granting such reliefs in their proper perspective. Here is the case as could be seen from the various letters referred to supra by the workman himself as well as by his wife, he did not report for duty all along persisting on his demand and insisting upon the management to transfer him from the above said places, Delhi and branch at Kota to Bangalore, he wanted to report duty therefore, on his own conditions. In this context the workman wanted to take the support of above said circular dated 22-9-88 at Ex. M 28 and paras 535 & 536 of Sastry Award contending that members of the subordinate establishment were not liable to be transferred beyond the language area of the employee so transferred. But in the instant case transfer of the workman is not the making of the management but on the very request made by the workman as per the letter dated 20-5-91 produced by the management at Ex. M 15. Ex. M 14 would disclose that it is at the request of the workman he was transferred to Delhi Branch by his application dated 3-10-91, the workman sought for some time to report duty at New Delhi giving out certain reasons. Ex. M 17 would reveal that his request being turned down, the management by its order dated 31-10-91 relieved the workman from his duty. The workman in his own affidavit before this tribunal at para 2 in no uncertain terms admitted that while he was working at Regional Office, Bangalore till November 1992, he had requested for transfer to New Delhi Regional Office and considering the same the management posted him to New Delhi Regional Office in November 1992. Moreover if his transfer was in violation of Ex. W 28 & 29, the remedy available to the workman was to challenge the transfer order itself. Therefore, remaining absent from duty after he was posted at New Delhi Branch and transferred to Kota Branch, he cannot now make out his grievance to say that he was not at fault in not reporting duty or to discharge his duties either at New Delhi Branch or at Kota Branch. It is for this attitude and the conduct of the workman, I am not inclined to accede to the contention of the first party workman that he deserved the relief of reinstatement along with all other consequential benefits. Therefore, in the light of the facts and circumstances of

the case it appears to me that ends of justice will be met if the workman is given relief of reinstatement and 50 percent of back wages from the date of reference till the date of his reinstatement. His period of absence from 31-12-94 shall be treated as 'not on duty'. Accordingly, the reference is answered and the following award is passed.

AWARD

The management is directed to reinstate the workman with 50 percent of back wages from 1st November, 1998 till the date of his reinstatement. No order to cost.

(Dictated to PA transcribed by me corrected and signed by me on 10th February, 2005)

A.R. SIDDIQUI, Presiding Officer

नई दिल्ली, 22 फरवरी, 2005

का.आ. 1057.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार तृतीकोरीन पोर्ट ट्रस्ट के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 32/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-2-2005 को प्राप्त हुआ था।

[सं. एल-44012/3/2000-आई आर (एम)]

सौ. गंगाधरण, अवर सचिव

New Delhi, the 22nd February, 2005.

S.O. 1057.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 32/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the Industrial Dispute between the management of Tuticorin Port Trust, and their workmen, received by the Central Government on 21-02-2005.

[No. L-44012/3/2000-IR (M)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 22nd November, 2004

PRESENT:

K. JAYARAMAN, Presiding Officer

Industrial Dispute No. 32/2003

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Tuticorin Port Trust, and their workmen)

Between :

The Chief Secretary, : I Party/Claimant
 Tuticorin Port Employees
 Trade Union, Tuticorin.

AND

The Chairman, : II Party/Management
 Tuticorin Port Trust,
 Tuticorin.

Appearances :

For the Workman : Sri R. Anunugam &
 Krishnakumar, Advocate
 For the Management : Mr. G. Dhamodaran &
 J. Sathyarathi, Advocates

AWARD

The Central Government, Ministry of Labour vide Order No. L-44012/3/2000-IR(M) dated 31-01-2003 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned in that order is—

'Whether the action of the Chairman, Tuticorin Port Trust to deny promotion to Smt. Suganthi Glora (alias V. R. Meenakshi) to the post of Senior Nurse against the vacancy reserved for SC w.e.f. 21-9-1987 is legal and justified? If not, what relief is the disputant entitled to?'

2. After the receipt of the reference, it was taken on file as I.D. No. 32/2003 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Tuticorin Port Trust was originally called as Tuticorin Harbour project. Thereafter this port was declared as Tuticorin Port Trust w.e.f. 1-4-79 under Major Port Trusts Act, 1963. One of the regulations published by the Central Govt. is called Tuticorin Port Trust Employees (Recruitment, Seniority and Promotion) Regulations, 1979. The reservation of SC/STs in services is applicable in Tuticorin Port Trust after formation of Tuticorin Port Trust w.e.f. 1-4-79. Further from the date of inception, Tuticorin Port Trust followed vacancy based roster based on reservations orders as contained in the said brochure till 2-7-97 even though the reservations are implemented effectively from 1-4-79. The concerned employee Smt. V.R. Suganthi Glora was initially appointed as Nurse in Tuticorin Port Trust hospital on 20-5-80, who belongs to SC community. She is fully qualified and eligible for further promotion. In the Tuticorin Port Trust prior to 31-12-1983 there was only 17 sanctioned posts in the grade of nurse in class III and there was no promotional avenue for the nurses. Subsequently, the Central Govt. in its letter No. L-WT-6/83-RO dated 31-12-83 conveyed sanction for creation of two posts of Senior Nurse in Class III pre-revised scale. In

all other Major Ports, the recruitment rules for the Senior Nurse is only five years of experience in the feeder cadre of nurse. But Tuticorin Port Trust management motivatedly to eliminate SC employees from the eligibility formulated draft recruitment rules for the post of Senior Nurse and it formulated that nurses with eight years service were eligible to be considered for promotion to the post of Senior Nurse instead of five years in all other Major Ports. Out of the two sanctioned posts of Senior Nurses in Class III pre-revised scale one post was required to be filled in by an employee belongs to SC community and the other post belongs to unreserved as per the vacancy based roster. Since no employee belongs to Scheduled Caste community with eight years service in the grade of nurse as proposed by the Tuticorin Port Trust was available to be considered for promotion at the relevant point of time, the vacancy meant for scheduled caste community was de-reserved and filled in with unreserved employee in possession of 8 years service in the grade of nurse based on the recommendations of Departmental Promotion Committee. But subsequently, recruitment rules for the post of Senior Nurse were notified by the Central Govt. in official gazette on 21-9-87. In that rules, nurses with five years service instead of eight years were eligible to be considered for promotion to the post of Senior Nurse. The SC/ST Employees Welfare Association has represented at the time of Notification of recruitment rules for the post of Senior Nurses during the year 1987 that the above candidate Smt. V.R. Suganthi Glora, who belongs to SC community was in possession of more than seven years service in the grade of nurse but only five years of service was required for promotion to the grade of Senior Nurse and hence before regularisation of ad-hoc promotions made to the general candidates in Senior Nurse grade, the SC employees in possession of requisite experience should have been considered for promotion. But, they have not done so. The Respondent instead of reverting the said candidate to the post of nurse, regularised the services in the grade of Senior Nurse w.e.f. 21-9-1987. Therefore, only alternative seems to be to create a post of Senior Nurse for Smt. Meenakshi and promote her with prospective effect and sent a proposal for creation of supernumerary post of Senior Nurse and they have addressed the same on 9-4-1994. The Central Govt. by an order dated 6-10-1994 granted approval for the post of Senior Nurse post but the Respondent created the post by an order dated 10-10-1994. The SC/ST Employees Welfare Association again demanded the promotion of SC candidate Smt. V.R. Suganthi Glora with retrospective date from which the unreserved candidates were promoted against reserved posts as per office memorandum of Ministry of Finance dated 14-3-1963. But they have not done so. Then the said Smt. V.R. Suganthi Glora gave a representation to the Respondent/Management through the Petitioner union to render justice. But, the Respondent failed to consider the demand. The Petitioner Union raised a dispute before the Labour Commissioner, which ended in failure and the Conciliation Officer also submitted his failure report. But the Ministry of Labour refused to refer the matter to the Tribunal on the ground that the dispute was raised belatedly without any adequate reasons to justify the delay. Then the Petitioner Union filed a Writ Petition No. 11577/

2001 to quash the said order. Then the Ministry on the basis of the order of High Court has referred this matter to this Tribunal for adjudication. The denial of promotion to Smt. V.R. Suganthi Glora to the post of Senior Nurse w.e.f. 21-9-87 is not legal and not justified. The Respondent instead of promoting scheduled caste community candidate de-reserved the vacancy and filled up the post with unreserved candidate on ad-hoc basis pending approval of the recruitment rules. But, the Central Govt. has modified and published the recruitment rules on 21-9-87 and as per modified rules the minimum qualification is five years experience instead of eight years as suggested by the Respondent. Therefore, the unreserved candidates appointed on ad-hoc basis is liable to be reverted and in that place Smt. V.R. Suganthi Glora is to be promoted as Senior Nurse w.e.f. 21-9-87. But, the Respondent/Management in order to deny promotion to her, regularised the services of ad-hoc appointees from 21-9-87. This action of the Respondent is a motivated one to deny the promotion to concerned employee. The Respondent knowingly and wantonly committed a mistake in regularising the service of ad-hoc dereserved candidated in a post meant for Scheduled Caste. Hence, for all these reasons, the I Party Union prays for an award directing the Respondent that promotion already given to her may be with retrospective effect from 21-9-87 and also to pay monetary benefits to her for the period from 21-9-87 to 11-10-94.

4. As against this, the Respondent in its counter Statement alleged that the concerned employee Smt. V.R. Suganthi Glora has filed a Writ Petition before the High Court in her individual capacity for Writ of Certiorari mandamus and the said Writ Petition is still pending before the High Court, even though the dispute was referred to this Tribunal. The I party Union raised the dispute belatedly and there is no justification for her raising this dispute after a quite long time. In fact, the other two nurses who had been promoted in 1984 itself, but the I Party Union raised the dispute before conciliation officer in the year 1998 with extraordinary and unexplained delay. Hence the above dispute is not maintainable in law and on facts. There were only 17 sanctioned posts in the grade of nurse as on 31-12-83 in pre-revised scale of pay in Tuticorin Port Trust. There was no promotional opportunity for nurses available and therefore, two posts of Senior Nurses (New category of post) was created in order to provide promotional avenue to nurses with the approval of Central Govt. The concerned employee Smt. V.R. Suganthi Glora was working as nurse and she had been put in nearly 4½ years of service as on 2-8-84 since she was appointed on 20-5-80. Further in the year 1984, nine nurses senior to Smt. V.R. Suganthi Glora were working in the Port Trust. In the draft recruitment rules framed for holding the senior nurse post, the feeder category nurse should have eight years of experience. Out of the senior nurses posts created one has been earmarked for reserved category and another post was allotted to unreserved category according to reservation orders applicable to SC/ST. Accordingly, the senior nurse among the eligible nurses, Smt. Rajamal had been promoted to unreserved post on 23-8-84 on ad-hoc basis because she was having criteria contemplated in the

particular draft rule. Since there was no scheduled caste candidate having criteria stipulated in the said draft recruitment rules, the said reserved post of Senior Nurse was deserved by following the established reservation rules and the dereserved first post. has been filled up by promoting the senior most staff holding the feeder post of nurse namely Smt. Chitra Pushpa Roja on *ad-hoc* basis and the said Smt. Chitra Pushpa Roja had put in 17 years of service and she was the senior most nurse holding the feeder post of nurse to Senior Nurse post. At that time, the concerned employee Smt. V.R. Suganthi Glora was only having four and half years of experience short of minimum requisite experience, therefore, she was not considered for promotion to the post of senior nurse by Departmental Promotion Committee. When the Central Govt. approving and notifying the recruitment rules relating to the post of Senior Nurse, it had reduced the requirement of eight years of service in the feeder grade nurse prescribed for promotion in the grade of senior nurse to five years of experience only and it was published on 21-9-87. Therefore, II Party/Management had not contravened or breached or violated any one of the rules either draft rules or approved rules and so the relief sought for by the I Party herein does not arise at all in the facts and circumstances of this case. The concerned employee had put in only 4½ years, when the promotion was made among the eligible nurses for promotion to Senior Nurse; therefore, the contention that she would be promoted retrospectively from the year 1984 is not tenable in law. She had not at all put in prescribed minimum experience of either eight years as stipulated in draft rules or five years of experience as contemplated in the reduced approval rules. Therefore, Smt. V.R. Suganthi Glora was given promotion in the year 1994 by creating a supernumerary post of senior nurse as per the the orders of Central Govt. on 6-10-94 and she was promoted w.e.f. 11-10-94. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. In such circumstances, the points for my determination are—

- (i) "Whether the action of the Respondent/Management to deny promotion to Smt. V.R. Suganthi Glora to the post of Senior Nurse against the vacancy reserved for Scheduled Caste w.e.f. 21-9-87 is legal and justified?"
- (ii) "To what relief the concerned employee is entitled?"

Point No. 1 :—

6. The contention of the Petitioner Union, which espouses the cause of Smt. V.R. Suganthi Glora, is when two promotional posts namely Senior Nurse were created, in tuticorin Port Trust Management, one was reserved for scheduled Caste community and the other was for unreserved category and the concerned employee namely Smt. V.R. Suganthi Glora has completed more than five years of experience in the grade of nurse is to be promoted in the category of Scheduled Caste, but on the other hand, the Tuticorin Port Trust Management motivatedly to eliminate

the Scheduled Caste employee namely Smt. V.R. Suganthi Glora from eligibility, formulated the draft recruitment rules for the post of Senior Nurse; and it formulated that nurses with eight years service were only eligible to be considered for promotion to the post of Senior Nurse, instead of five years as mentioned in all other Major Ports and sent a proposal to Central Govt. for approval and notification in the Official Gazette. But the Central Govt. vide its order dated 21-9-87 even though has approved the rules and regulations but has reduced the total years of experience in the grade of nurse from eight years to five years. Therefore, during the year 1997, the concerned employee who belongs to Scheduled Caste community was in possession of more than seven years of service in the grade of Nurse but only five years of service was required for promotion to the grade of Senior Nurse and hence, the SC/ST Employess Welfare Association has requested the Respondent/Management before regularisation of the *ad-hoc* promotions made to general candidates in the grade of Senior Nurse, the Scheduled Caste employee in possession of requisite experience should have been considered for promotion to the post of Senior Nurse. But, without considering the said request made by the SC/ST Employees Welfare Association, the Respondent/Management has regularised the services of the grade of Senior Nurse with two unreserved candidates. Even after that only alternative seems to be to create a post of Senior Nurse for Smt. V.R. Suganthi Glora and to promote her with prospective effect and sent a proposal for creation of a supernumerary post in the grade of Senior Nurse and even after getting the supernumerary post of Senior Nurse, the Tuticorin Port Trust with a vindictive nature has promoted the concerned employee only from the date of the order *i.e.* from 10-10-1994 and not from 21-9-87 *i.e.* only with prospective effect not with retrospective effect. Therefore, the I Party Union has alleged that the order passed by the Respondent/Management is not legal and justified. They have filled up the reserved post for SC with unreserved candidates and not only that the Respondent instead of promoting the Scheduled Caste dereserved the vacancy and filled the post with unreserved candidates on *ad-hoc* basis pending approval of recruitment rules which shows the vindictive nature of the Respondent/Management. Therefore, they wanted this Tribunal to pass an order to give promotion to the concerned employee retrospectively.

7. But, as against this, the Respondent/Management contended that even assuming for argument sake that as per the approved rules for the post of Senior Nurse at the time of consideration of promotion *i.e.* in the year 1984, the concerned employee had put in only 4½ years of experience when promotion was made among the eligible nurses for promotion to Senior Nurse. Therefore, the contention of the Petitioner Union that concerned employee would have been promoted retrospectively from the year 1984 is not tenable in law and she has not at all completed eight years as stipulated in draft rules or five years of experience as contemplated in the reduced approved rules while approving and drafting rules in the Official Gazette of India. It is the further contention of the Respondent that in the year 1984 nine nurses, who were senior to concerned

employee namely Smt. V. R. Suganthi Glora were working in Tuticorin Port Trust and they were having 8 years, 9 years and 17 years of experience. Though the concerned employee belongs to Scheduled Caste community and though nine nurses except the concerned employee Smt. V.R. Suganthi Glora, belong to other community, who were filled under unreserved category and further, though out of two Senior Nurse posts created, one was earmarked for Scheduled Caste category and another for unreserved category according to reservation orders applicable to Scheduled Caste/Scheduled Tribe. Since the criteria stipulated in the draft rules has not been fulfilled by the concerned employee, she has not been considered for promotion, on the other hand, Smt. Rajammal who had got nine years experience in the Port Trust has been promoted to the unreserved post on 23-8-84 on *ad-hoc* basis and in the reserved category, as no one in that category having the criteria stipulated in the draft recruitment rules, the said reserved post of Senior Nurse was dereserved by following the established reservation rules namely order No. S-9/13/84/II dated 2-8-1984. The said dereserved post had been filled up by promoting senior most staff namely Smt. Chitra Pushpa Roja on *ad-hoc* basis, who had put in 17 years of service and in fact, she was the senior most nurse in the feeder category of nurse. Under such circumstances, it cannot be said that the management has vindictively passed this order and only on the basis of the above order, these promotions have been given by dereserving the vacancy.

8. In this case, in order to establish their contention, the Respondent/Management has produced ten documents as Exs. M1 to M10 namely Ex. M1 is the copy of the bio-data of Smt. V.R. Suganthi Glora, Ex. M2 is the service details of Smt. V.R. Suganthi Glora, Ex. M3 is the copy of bio-data of Smt. Chitra Pushpa Roja, Ex. M4 is the service details of Smt. Chitra Pushpa Roja, Ex. M5 is the bio-data of Smt. T. Rajammal, Ex. M6 is the service details of Smt. Rajammal, Ex. M7 is the draft recruitment rules for the post of Senior Nurse, Ex. M8 is the Gazette Notification of the recruitment rules for the post of Senior Nurse dated 21-9-87, Ex. M9 is the clear copy of the above said notification and Ex. M10 is the approval order for creation of supernumerary post of Senior Nurse. On the side of the I Party/Union no document has been filed. Both sides have not let in any oral evidence.

9. The learned counsel for the Petitioner contended that the Port Management while giving promotion has violated the recruitment rules and natural justice based on social origin. The Joint Secretary (port) in his letter dated 15-3-1994 to the Chairman of the Port Trust has stated in clear terms that the regularisation of two *ad-hoc* Senior Nurses in 1987 was done wrongly and therefore, only alternative at this juncture of time seems to be created a post of Senior Nurse for Smt. Meenakshi and promote her with prospective effect and send a proposal for creation of a supernumerary post of Senior Nurse. Though the Govt. has passed an order for creating supernumerary post of Senior Nurse, it was not mentioned that the creation of said post should only prospectively or retrospectively. On

the other hand, the Respondent/Management though has created the supernumerary post has promoted the concerned employee only from the date of order *i.e.* 11-10-1994. The Respondent/Management has made a lot of mistakes while the post of senior nurse filled in with unreserved candidates by violating the reservation rules and while regularising the *ad-hoc* services of unreserved Senior Nurses during 1987 also it had violated the recruitment rules and Govt. reservation orders purposely and motivately to suppress the Scheduled Caste employees. This was reflected by the letter from Joint Secretary to the Government of India and even after that the II Part/Management has not rectified its defect. The said mistake ought to have been rectified and the concerned employee Smt. V. R. Suganthi Glora ought to have been given promotion w.e.f. 21-9-87.

10. Though I find some force in the contention of the learned counsel for the Petitioner, at the time of promoting Smt. T. Rajammal and Smt. Chitra Pushpa Roja *i.e.* in the year 1984 since the concerned employee has not completed either five years or eight years as mentioned in the draft rules, the Port Trust management has not promoted the concerned employee Smt. V. R. Suganthi Glora. Even though supernumerary post had been created as per letter No. A-11013/26/94 PE II dated 6-10-94, in that letter nothing has been stated from which date the said supernumerary post has been created and whether it should be made prospectively or retrospectively, but, on the other hand, since it was not mentioned in the order that it should be given retrospectively, the Respondent/Management has given the promotion to the concerned employee only prospectively and therefore, it cannot be said that the Respondent/Management has done a mistake. Further, at the time of the promotion *i.e.* during 1984 there was no one in the Scheduled Caste category eligible for promotion to the post of Senior Nurse, hence the said reserved post of Senior Nurse was unreserved by following the established reservation rules namely the Port Trust order No. S-9/13/84/II dated 2-8-1984. Under such circumstances, I find there is no mistake made by the Respondent/Management while promoting the concerned employee Smt. V. R. Suganthi Glora and Smt. Chitrapushpa Roja. Under such circumstances, I find this point against the Petitioner Union.

Point No. 2 :—

The next point to be decided in this case is to what relief the concerned employee is entitled ?

11. In view of my foregoing findings that the order, passed by the Respondent/Management is not in violation of any rules, I find the concerned employee is not entitled to any relief as prayed for by the Petitioner Union. No Costs.

12. The reference is answered accordingly.

(Decated to the P.A. transcribed and typed by him, corrected and pronounced by me in the open court on this day the 22nd November, 2004).

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

On either side : None

Documents Marked :—

For the I Party/Claimant :— Nil

For the II Party/Management :—

Ex. No.	Date	Description
M1	Nil	Bio-data of Smt. V. R. Suganthi Glora.
M2	Nil	Service details of Smt. V. R. Suganthi Glora.
M3	Nil	Bio-data of Smt. Chitrapushpa Roja.
M4	Nil	Service details of Smt. Chitrapushpa Roja.
M5	Nil	Bio-data of Smt. T. Rajammal
M6	Nil	Service details of Smt. T. Rajammal.
M7	Nil	Xerox copy of the draft recruitment rules for the post of Senior Nurse.
M8	21-09-87	Xerox copy of the Gazette Notification of recruitment rules for the post of Senior Nurse.
M9	Nil	Clear of Ex. M8.
M10	06-10-94	Xerox copy of the approval order of creation of Supernumerary post of Senior Nurse.
M11	1-9-03	Application for Voluntary Retirement
M12	31-3-04	Copy of order of Voluntary Retirement.
M13	11-5-04	Copy of letter of II Party to Ministry of Shipping.

नई दिल्ली, 23 फरवरी, 2005

का. आ. 1058.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधित प्रक्रियाओं के संबंध में नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ब्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 20/2003) को प्रकल्पित करती है, जो केन्द्रीय सरकार को 22-2-2005 को प्राप्त हुआ था।

[सं. एल-12014/01/2005-आईआर (बी-1)]

सौ. गंगाधरण, अधर सचिव

New Delhi, the 23rd February, 2005

S.O. 1058—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 20/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 22-2-2005.

[No. L-12014/01/2005-IR(BI)]

C. GANGADHARAN, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

PRESENT:

**Shri E. ISMAIL, B. Sc., LL.B.,
Presiding Officer**

Dated the 30th November, 2004

INDUSTRIAL DISPUTE NO. L.C.I.D. 20/2003**BETWEEN:**

Sri Vankayalapati Koteswara Rao,
S/o Peda Kotaiah,
R/o Bandiamotu

....Petitioner

AND

1. The General Manager,
State Bank of India,
LHO, Koti, Hyderabad.

....Respondents

APPEARANCES:

For the Petitioner : B Murali Mohan,
Advocate

For the respondent : B Lalitha Kumari, &
B.S. Bhaskar Dev.
Advocates

AWARD

This is a Petition filed under Sec. 2(A)(2) of the ID Act and the Petitioner claiming that he is working as messenger under the State Bank of India, Bandiamotu and was terminated from service on 20-1-1996. At the time of termination he is getting Rs. 300/- per month. The Petitioner has sent a notice on 28-5-1997 but the Management sent a reply on 23-7-1997 with false averments. Hence he may be reinstated with back wages, continuity of service etc as the action of the Management is contravent to Sec. 25(f), (g) and (h) of the ID Act and in spite of his best efforts he could not get alternate employment.

A counter was filed stating that various settlements were entered into between State Bank of India and All India State Bank of India Staff Federation and Writ Petition was filed in Hon'ble High Court of AP against which Writ Appeal No 86/98 and batch and also the orders passed by hon'ble Supreme Court in SLP (C) 11886-11888 of 1998 dated 10-8-98 were passed. Hence the petitioner is not entitled to any relief and reserve the right to file a detailed counter.

The Petitioner absented himself from 18-7-2003 in spite of issuing notices till today. There is nothing on record to support the case of the Petitioner. Hence a 'NIL' Award is passed and Transmit.

Dictated to Shri J Vijaya Sarathi, LDC transcribed by him corrected and pronounced by me on this the 30th day of November 2004.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents Marked for the Petitioner

NIL

Documents Marked for the Respondent

NIL

नई दिल्ली, 23 फरवरी, 2005

का. आ. 1059.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कर्सर वैश्य बैंक लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण/श्रम न्यायालय चैनरी के पंचाट (संदर्भ संख्या 71/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-2-2005 को प्राप्त हुआ था।

[सं. एल-12012/292/2002-आईआर (बी आई)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 23rd February, 2005

S.O. 1059.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 71/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Karur Vysya Bank Ltd., India and their workmen, which was received by the Central Government on 22-2-2005.

[No. L-12012/292/2002-IR(BI)]

C. GANGADHARAN, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Wednesday, the 13th October, 2004

PRESENT:

K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE No. 71/2003

[In the matter of the dispute for a adjudication under clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Karur Vysya Bank Ltd., Karur and their workmen]

BETWEEN :

The General Secretary,
Karur Vysya Bank Employees Union,
Bangalore. I Party/Claimant

AND

The Chairman,
Karur Vysya Bank Ltd., Karur

II Party/Management

Appearances :

For the Claimant : M/s. D. Hariparanthaman,
Advocates

For the Management : M/s. T.S. Gopalan & Co.
Advocates

AWARD

The Central Government, Ministry of Labour *vide* Notification Order No. L-12012/292/2002-IR(B-I) dated 4-4-2003 has referred the following dispute to this Tribunal for adjudication :—

“Whether the punishment of dismissal from service imposed on Sri R. Vijayakumar by the management of Karur Yysya Bank is justified or not? If not, what relief the workmen is entitled to?”

2. After the receipt of the reference, it was taken on file as I.D. No. 71/2003 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner Union in the Claim Statement are briefly as follows :—

The I Party/Union espouses the cause of one Sri R. Vijayakumar, who joined the services of the Respondent/Management as a sub-staff in 1994. He was posted to work at Thiruvannamalai branch and in Thiruvannamalai branch usually, cash is taken to Chennai from Thiruvannamalai branch and one of the sub-staff members in the branch will be sent for the same. There are three sub-staff working at Thiruvannamalai branch and taking cash from the branch to the main office at Chennai, the sub-staff will be sent on rotation. On 18-11-2000 it was the concerned employee namely Sri R. Vijayakumar's turn to go to Chennai for cash remittance. When the Manager asked as to whose turn it was at 2.00 pm on that day, he told that it was his turn. The Assistant Manager did not say anything. However, without any reason or justification, Sri Venkanna who is working as sub-staff in the same branch interfered and shouted that it was one Mr. Balaji, sub-staff's turn. Further, Mr. Venkanna caught hold of Sri R. Vijayakumar's shift and spectacle and raised his hands to hit and assault him. To save himself, from being hit and assault by Mr. Venkanna, the concerned employee caught hold of Sri Venkanna's hands to prevent himself from being assaulted. Due to this, the concerned employee's power glass fell on the floor and the concerned employee was suffering with low vision and since his spectacle fell down and since he was shocked with the unexpected incident, he tried to balance himself, he tried to get hold the table. While so, the adding machine, which was placed on the table, fell down unexpectedly. Thus, Mr. Venkanna alone was responsible for the whole incident and he only interfered and picked up quarrel with Sri R. Vijayakumar without any reason or justification. However, the Assistant General Manager (PAD) of the Respondent/Bank told the concerned employee to give a letter of apology and also assured that only if he

gives such a letter of apology, further action could be avoided and based on such assurance, the concerned employee Sri R. Vijayakumar submitted a letter dated 25-11-2000 and explained the actual incident that took place on 18-11-2000 expressed his regret and sought apology though he was not responsible for the incident. Further, a joint statement given by all the award staff on 20-11-2000 will explain as to what had happened actually on 18-11-2000. But, in spite of the assurance and apology letter, the II Party/Management placed the concerned employee Sri R. Vijayakumar under suspension by an order dated 1-12-2000 and at the same time, Mr. Venkanna was not placed under suspension when he was responsible for the whole incident. The II Party/Management further issued a charge memo on 16-12-2000 under clause 19.5(c) and 19.5(j) of Bipartite Settlement alleged that the action would amount to riotous and disorderly behaviour and an act prejudicial to the interest of the bank. Even though the concerned employee submitted his explanation, it was not accepted and an enquiry was ordered to be conducted. In the enquiry, the concerned employee informed that he had already submitted two letters dated 26-11-2000 & 27-12-2000 and that he admitted the charges in those letters and prayed to close the charge sheet with minor punishment. But, the Enquiry Officer has given his finding holding him guilty of the charges. Even though, the defence representative prayed the Disciplinary Authority to take a lenient view on the punishment, the Disciplinary authority had passed the order of dismissal of the concerned employee from service by an order dated 30-7-2001. Even the appeal filed by the concerned employee was dismissed by the Appellate Authority by an order dated 4-12-2001. The action of the management in dismissing the services of concerned employee is arbitrarily and violative of Article 21 of the Constitution. The admission was made only because of the assurance given by the assistant General manager (PAD) and the concerned employee gave the letter of apology believing and expecting that he would be shown sympathy and leniency as promised by the Respondent/Bank authorities. Therefore, the order of dismissal is illegal and *mala fide*. The letter dated 26-11-2000 will clearly establish that the concerned employee was not responsible for the incident. Therefore, the dismissal is vitiated. Even in the joint statement, it was stated that both the concerned employee and Mr. Venkanna had indulged in scuffle. But neither the Enquiry Officer nor the Disciplinary Authority has taken into consideration of this letter. Further, no action was taken against Mr. Venkanna, who was responsible for the incident. Therefore, the entire disciplinary action and also dismissal order is discriminatory. The incident has been taken place on Saturday and that too after the banking hours. Therefore, it cannot be said that the act is prejudicial to the interest of the bank. Dismissing the concerned workman for a trivial misconduct is unjust and totally harsh and excessive. Dismissing the concerned workman for using abusive language is an unfair labour

practice and also it is a clear case of factual and legal victimisation. Further, the Tribunal has got every power to interfere with the punishment of dismissal under section 11A of the Industrial Disputes Act. Under such circumstance, the Petitioner Union prays for an award holding that the punishment of dismissal on the concerned employee is unjustified and consequently direct the Respondent/Management to reinstate him in service with consequential relief.

4. As against this, the Respondent in its Counter Statement contended that the Respondent/Bank is a company registered under Companies Act. The bank employs sub-staff and the sub-staff on completion of five years of service is eligible to appear for test/interview for selection as clerk and a clerk on completion of two years service can appear for test and interview for selection as an officer. Among the officers there are three scales namely Scale I, II and III and there are posts of Assistant General Manager, Deputy General Manager, General Manager and Executive Director. Therefore, a person who join as sub-staff has opportunity to raise to the top most position as stated above by dint of hard work and good behaviour. Therefore, the bank expects the sub-staff to maintain a high sense of discipline and good conduct. Further the bank also sent the sub-staff for refresher course training where apart from imparting knowledge about banking and customer service they are also trained in development of inter-personnel relationship with peers, superiors and others. Therefore, in this case, the misconduct committed by the sub-staff was viewed seriously and the punishment of termination was awarded. Therefore, the dismissal on the concerned workman should be viewed in the aforesaid context. In the case, the concerned employee while he was working in Perumbakkam branch on 19-5-98 made a representation that he would like to learn more work and as scope for learning work in Perumbakkam branch was less, he may be posted to a major branch like Villupuram. On consideration of the representation made by the concerned employee on 3-6-98, he was transferred to Thiruvannamalai branch which is a larger branch like Villupuram. No doubt, whenever there is a surplus cash, it will be transferred to currency chest or to the nearest larger branch and at time of transit of cash, a sub-staff will accompany the officer or the clerk. There is no rigid rule as to which clerk and sub-staff should accompany the officer at the time of transit of cash. On 18-11-2000 at about 2.00 pm the Thiruvannamalai Branch Manager directed the Deputy Manager to arrange for movement of funds to Chennai on 20-11-2000. It was reported that the concerned workman was talking to one Mr. S. Venganna about who should accompany the officer for transit of funds. In that incident, the concerned workman has used abusive language against Mr. Venganna and when Mr. Venganna advised the concerned workman to stop using abusive language and as he raised his hand it touched the spectacle of concerned workman and it fell down; in a fit of anger, the concerned workman slapped Mr. Venganna on his cheeks and then hit Mr. Venganna with the general ledger on the neck. Then he

lifted the adding machine and tried to hit Mr. Venganna. In that incident, the adding machine fell down and got damaged. On the same day, the Branch Manager as well as Deputy Manager gave reports to Head Office about the incident involving the concerned workman. Mr. Venganna also gave a complaint and therefore on 16-12-2000 a charge sheet was issued to concerned workman charging him under clause 19.5(c) and 19.5(j) of Bipartite Settlement. For this, the concerned workman has given a reply admitting his misconduct. But any how, an enquiry was ordered and in that the Enquiry Officer gave his report holding that the charges levelled against the concerned employee were proved and after considering the representation, the Disciplinary Authority passed an order on 30-7-2001 dismissing the concerned workman from service. It is false to allege that Mr. Venganna raised his hands to hit and assault the concerned workman and it is also false to allege that falling of adding machine was accidental. No assurance was given to concerned workman that action against him will be dropped only if he tenders apology. The concerned workman has admitted the charges on more than one occasion and cannot be permitted to go back on it. The action of the concerned workman towards his fellow workman was highly reprehensible and merited the punishment of dismissal. Merely because there was no customer in the branch it would not mitigate the gravity of the charges. The circumstances shown would not warrant interference by this Tribunal even in exercise of its wide powers under Section 11A of the Industrial Disputes Act. Further, the order of reference only refers to justification of punishment, therefore, it is not open to the Petitioner to canvass any other question before this Tribunal. In this case, the punishment awarded to the concerned workman is fully justified and no case is made out to interfere with the punishment of dismissal. Hence, the Respondent prays that the claim may be dismissed with costs.

5. In such circumstances, the points for my determination are :—

- (i) "Whether the punishment of dismissal from services imposed on the concerned workman Sri. R. Vijayakumar by the Respondent/Management is justified or not?"
- (ii) "To what relief the concerned workman is entitled?"

Point No. 1 :

6. The admitted case of the both sides is that is that on 18.11.2000 at about 2.00 P.M. the Branch Manager of Thiruvannamalai branch of the Respondent/Bank directed the Deputy Manager to arrange for the movement of funds to Chennai on 20-11-2000 and it is the usual practice of Thiruvannamalai branch that whenever there is surplus cash it will be transferred to currency chest or to the nearest larger branch and the concerned workman Sri. R. Vijayakumar was talking to one Mr. Venganna another sub-staff of the said branch, about who should accompany the officer for transit of the funds and the concerned workman has claimed his right of turn to go

to Chennai and it was objected by Mr. Venganna stating that it is the turn of one Mr. Balaji and there was an argument and later the concerned workman used abusive language against Mr. Venganna and when Mr. Venganna raised his hand, it touched the spectacle of the concerned workman and in the fit of anger the concerned workman namely Sri R. Vijayakumar slapped Mr. Venganna on his cheeks and the incident thus happened.

7. On behalf of the Petitioner, it is contended that the incident has taken place only by Mr. Venganna and not by the concerned employee, but the Respondent/Management has taken action only against the concerned workman. Further, the concerned employee was suspended and subsequently 'on enquiry, dismissal was ordered against him and it is a clear discrimination on the part of the Respondent/Management. But, on the other hand, on behalf of the Respondent, it is contended that even the Manager and Staff of the Thiruvannamalai branch reported that it is only because of the concerned workman, the incident has happened and Mr. Venganna has not done anything to instigate or provoke the concerned employee. Under such circumstances, it cannot be said that there is a discrimination among the staffs.

8. Further, the learned counsel for the Respondent argued that the Petitioner Union sought the intervention of the conciliation officer on the ground that the punishment was harsh and even the order of reference by the Ministry also refers only justification of the punishment and therefore, it is not open to the Petitioner to canvass any other question before this Tribunal except the punishment. In this case, it is false to allege that Mr. Venganna was responsible for the incident, on the other hand, it is only the concerned employee was responsible for the incident and only because of that the concerned workman has given the letter of apology and further, he has admitted the guilt even the enquiry and therefore, it cannot be said that the punishment awarded is excessive and the Petitioner Union has not made out any case to interfere with the case of the concerned workman. Further, it is argued that the concerned workman in this case has assaulted a fellow workman which is highly reprehensible and merited the punishment of dismissal. Merely because the incident has taken place not in the banking hours or on the ground that there was no customer in the bank, in any case, it would not mitigate the gravity of the charges levelled against the concerned employee and therefore, it is not a case which warrants interference by this Tribunal in exercise of its wide power under section 11A of the Industrial Disputes Act.

9. Learned counsel for the Petitioner argued that though the concerned employee has alleged to have admitted the charges framed against him, it is not a clear admission on the part of the concerned employee, on the other hand, it is a qualified admission because he has already mentioned the same in his letter dated 26.11.2000 and 27.12.2000 as to what had happened on the date of incident i.e. 18-11-2000 and he has prayed for apology and further prayed for lenient punishment and under

such circumstances, it cannot be said that he has voluntarily admitted the entire charges. Tendering apology will not amount to admission of entire incident. On the other hand, the concerned employee has narrated the incident and also alleged that only because of Mr. Venganna and only because of his provocation, he was made to do this act. Under such circumstances, it cannot be said that the punishment imposed by the Respondent is justified. Further, he relied on the rulings of several High Courts and Supreme Court. The first judgment relied on by the counsel for the Petitioner is reported in 1990 LLJ 468 Management of Tafe Vs. R. Ventakaran and others, wherein the Division Bench of the Madras High Court has held that "*came to the conclusion that the punishment of dismissal of workman, who was found guilty of slapping the charge hand while on duty and ordered for dismissal from service, was disproportionate and ordered passed by the Labour Court while ordering reinstatement of the workman deemed fit to deny him the wages for the period till the date of reinstatement*" and the Division Bench further held that "*this award was within the purview of the Tribunal and declined to interfere with its discretion.*" The learned counsel for the Petitioner further relied on an unreported case in W.P Nos. 5941 & 5942/95 wherein the Single Bench of Madras High Court in a case where the workman indulged assaulting a co-workman while he was leaving the company after the first shift and while the management in the domestic enquiry has held that his action is punitive and hence punished him by an order of dismissal and in the industrial dispute raised before the Tribunal, the Labour Court passed an award setting aside the order of removal and direct to reinstate the concerned employee in service. In that case, in a Writ Petition before the High Court, the High Court has held that "*the Enquiry Officer has clearly found on the basis of evidence available before him and held that both the delinquents were involved in violent behaviour with the co-employee Mr. Mariadoss and his wife. It is necessary to maintain absolute discipline in any industrial unit and the Respondent/Management was certainly entitled to take action against the delinquents violating peaceful atmosphere. However, I am inclined to hold that having regard to the nature of misconduct alleged against the delinquents, the punishment of dismissal from service would be totally extreme and disproportionate to the nature of delinquency. The social background of the delinquents have to be borne in mind while appreciating their behaviour and the fact that they have quarrelled between themselves over the union activities cannot be resulted in infliction of extreme penalty of dismissal.*" The next case relied on by the Petitioner side is 1996 II LLJ 335 Palghat BPL & PSP Thozhilali Union Vs. BPL India Ltd. & another, wherein three workmen belonging to trade union while on strike alleged to have assaulted the officers of the management and they were charged with the misconduct and on the submission of *ex parte* report by the Enquiry Officer they were dismissed from service. While the dismissal was set aside by the Labour Court, the management has filed a Writ Petition before the High Court against the Labour Court Award, wherein

Single Bench allowed the Writ Petition and set aside the award of Labour Court and on appeal, the Division Bench of the Kerala High Court has confirmed the order of the Single Bench. When the union took the matter by Special Leave, the Supreme Court has held that "in this case the findings recorded by the High Court and Labour Court is that stones were thrown and officers were attacked which resulted in grievous injuries to officers, but it is seen that the appellants (employees) alone were not members as assembly of workmen standing at BPL bus stop. The Labour Court on its discretion under section 11A of the Act to consider the quantum of misconduct and the punishment. In view of the surging circumstances namely the workmen agitating by their collective bargain for their demands and when the strike is on the settlement during conciliation proceedings though initially agreed to was dropped later on. In these circumstances, the Labour Court was justified in taking a lenient view and setting aside the order of dismissal and giving direction to reinstatement with a cut of 75% of back wages upto the date of award. In our considered view, the discretion exercised by the Labour Court is proper and justified in the facts and circumstances of the case and the High Court has not adverted to these aspects of the matter and merely had gone into the question whether the act complained of is a misconduct or not." The next judgment relied on by the counsel for the Petitioner is 2002 4 LLN 470 Sri Ganapathy Mills Company Ltd. Vs. Presiding Officer, Labour Court & Another wherein the Madras High Court while considering the question of an employee of the Petitioner mill assaulting a co-worker in front of the factory gate in a dispute relating to union activities, the High Court has held "now coming to the question of quantum of punishment, I am inclined to hold that the order of dismissal is disproportionate to the nature of allegations against the 2nd Respondent. Both Mr. Velu and the 2nd Respondent are only last grade employees and when the quarrel took place they appear to have been highly emotional in the context of their involvement with the Respective Unions. What had happened was only a result of momentary provocation between themselves and I do not think that the delinquency requires serious punishment of dismissal from service....." The learned counsel for the petitioner further argued that words uttered in surcharged atmosphere will not mean what they ordinarily intended to convey and in this case, though it is not admitted by the concerned employee the words used by him are also referable to culture and heritage of the user and the Tribunal must not throw stress or strain that the concerned employee had been undergoing at that time when the occurrence took place. But one thing is certain that some thing could have happened making him to loose his balance. In this case, the concerned employee's spectacle has been fallen down by the action of Mr. Venganna, sub-staff of the Respondent/Bank Thiruvannamalai branch, which resulted in the incident. Though such an act of the concerned employee cannot at all be appreciated, yet it cannot be stated that he should be dismissed from service, even considering his past misconduct which are after all trivial in nature and

the concerned employee had been undergoing agony and anguish of being terminated from service for the past four years and during this period, the incident in question could have been wiped out from the memory of every one. Under such circumstances, interests of justice require a much lesser punishment which the concerned employee himself has admitted in his apology letter. Under such circumstances, the order of dismissal passed by the Respondent/Management is grossly disproportionate to the alleged action of the concerned employee.

10. But, on the other hand, the learned counsel for the Respondent argued that in the Respondent/Bank even the sub-staff cadre has an opportunity to rise to the topmost position by dint of hard work and good behaviour. Only because of that the Respondent/Bank has sent the sub-staff for refresher course training where apart from imparting knowledge about banking and customer service they are also trained in development of inter-personnel relationship with peers, superiors and others. In this case, it is admitted by the concerned employee as WW1 that he has been sent to refresher course and therefore, the Respondent/Bank expects the sub-staff to maintain higher sense of discipline and good conduct and under such circumstances, the action of the concerned employee slapping or assaulting a co-employee cannot be termed as a minor quarrel which will not affect the administration of the Respondent/Management. Further, the learned counsel for the Respondent relied on the rulings of High Courts and also Supreme Court. The first case relied on by the learned counsel for the Respondent is 2000 4 LLN 168 Precipenum Valve Manufacturers Vs. Presiding Officer Vs. Labour Court Bombay and Another wherein the Bombay High Court while dealing with a case of dismissal of workman and Labour Court directed for payment of four years wages by way of compensation to workmen holding the dismissal was shockingly disproportionate to the misconduct. the Bombay High Court has held that "though the counsel for the workman has submitted justice should be done with mercy in the present case, the co-workman was assaulted on the factory premises causing him head injury with seven stiches and also seven days hospitalization, in these circumstances, the merciless workman cannot be shown any mercy" and also held that "the petition filed by the workman cannot be entertained and dismissed the same". The next case relied on by the learned counsel is 2001 1LLN 299 N. Karunakaran Vs. Presiding Officer Vs. Labour Court, Bombay and another wherein, the Madras High Court while dealing with the case dismissal of an employee who has assaulted co-workman during the office hours of factory and while the Labour Court has held though the conduct of the employee would amount to disorderly behaviour inside the factory premises after taking into consideration the past history of the Petitioner has found that the punishment of dismissal is quite proportionate to the charges proved against the Petitioner and while the employee challenged the order in Writ Petition, the High Court has held that "the acts of disorderly behaviour inside the factory and assaulting a co-workman in the factory premises during office hours represent that there is no value either for

righteousness or for the orderly rule of conduct in the factory and the action would not pass the test of a reasonable man in a work spot during the working hours as the provocation for his breeze with his co-worker was not established" and hence, dismissed the Writ Petition. The next authority relied on by the Respondent is 2000 I LLJ 702 Vanamallai Vs. Sundaram Textiles Ltd. wherein a workman of the textile mill challenged the award of the Labour Court which held the dismissal of the Petitioner is justified but directed the Respondent to pay compensation to the Petitioner. While challenging the same before the High Court. High Court has held that "act of beating a co-worker with a chappal, which the Petitioner admitted having committed was a grave misconduct not to be condoned in order to prevent labour discontent in the factory" and dismissed the Writ Petition.

11. Learned counsel for the respondent further argued even in case if this Tribunal comes to a conclusion that lenient punishment must be given to the concerned employee, it cannot order for reinstatement and only compensation can be allowed and for this, he relied on a judgement reported in 1998 2 LLN 750 BAJAJ AUTO CONSUMERS CO-OPERATIVE SOCIETY LTD. Vs. UTTAM DYANOBA TAJANE AND OTHERS. wherein the employee assaulting co-workman at the place of work, in the Labour Court it was held that dismissal of employee is harsh and directed reinstatement with back wages. While the management in Writ Petition challenged the award passed by Labour Court, the High Court has held that "reinstating such an employee would be subversive of discipline in the establishment and if a workman or an employee is found to be guilty of violent conduct and if the said workman is reinstated in service, then in my opinion, it will definitely have an adverse effect on the discipline that an employer is required to maintain amongst his employees" and further held that "the Courts below were not justified in granting reinstatement in service as in my opinion, interest of justice will be served by directing the Respondent to pay 50% of back wages to the Petitioner". Further, the learned counsel for the Respondent relied on rulings reported in 2000 2 LLN 402 Uttar Pradesh State Road Transport Corporation Vs. Subhash Chandra Sharma and Others, wherein while dealing with the matter of dismissal of a driver of State Transport Corporation, while the driver in a drunken state went to the Assistant Cashier and demanded money and on refusal by the cashier, he abused him and threatened to assault him and by the domestic enquiry he was punished with dismissal, wherein the Labour Court set aside the order of dismissal on the ground that the removal was shockingly disproportionate to the charge and while the matter was dealt with by the Supreme Court, the Supreme Court held that "the charge against the Respondent was that he in a drunken state went to the Assistant Cashier of the appellant and demanded money and when the Assistant Cashier refused, the Respondent abused him and threatened to assault him and it is certainly a serious charge of misconduct against the respondent. In such circumstances, the Labour Court was not justified in

interfering with the order of removal from of Respondent from service, when the charge against him stood proved, rather the discretion exercised by the Labour Court in the circumstances of the present case was capricious and arbitrary and certainly not justified and it could not be said that the punishment awarded to the Respondent was in any way shockingly disproportionate to the nature of charge found proved against him". Relying on these decisions, the learned counsel for the Respondent argued that in this case the concerned employee has slapped or assaulted the co-employee while in the work spot and under such circumstances, it cannot be said that he should be awarded with a minor punishment. It is a grave misconduct and the punishment given by the Disciplinary Authority is just and proper and in no circumstances it can be interfered by this Tribunal.

12. Though I find some force in the contention of the learned counsel for the Respondent, in this case as I have already pointed out that the Respondent/management has not taken any action against Sri Venganna who was also involved in the incident. Though, the concerned employee has admitted his charge framed against him, it is not fair on the part of the management to take action only against concerned employee and not against the said Mr. Venganna. But any how, since the concerned employee has admitted the charges framed against him, I do want to interfere in the conduct of the domestic enquiry. On the other hand, I find the action of the domestic enquiry is punitive. It is only on the provocation of the said Mr. Venganna, the concerned employee in a fit of anger has slapped the said person. Therefore, we cannot forget the stress and strain the concerned employee had been undergone at the time of occurrence took place. Under such circumstances, though the said act of the concerned employee cannot at all be appreciated, yet it cannot be said that he should be dismissed from service. He had been undergoing agony and anguish of being terminated from service for the past four years and I think, the incident in question could have been wiped out from the memory of every one. Further, in this case, from Ex. W1 it is clear that even the aggrieved party namely Mr. Venganna has admitted that both of them had involved in the incident. Under such circumstances, I find interests of justice require lesser punishment and in this view, I find reinstatement of concerned employee without back wages, but continuity of service and other attendant benefits should be ordered. Therefore, I find the punishment of dismissal from service imposed on the concerned employee Sri R. Vijayakumar by the Respondent/management is not justified.

Point No. 2 :—

The next point to be decided in this case is to what relief the concerned employee is entitled?

13. In view of my foregoing findings, I find that the concerned employee Sri R. Vijayakumar is to be reinstated in service without back wages but continuity of service and other attendant benefits. Ordered accordingly. No Costs.

14. The reference is answer accordingly.

(Dictated to the P.A. transcribed and typed by him, corrected and pronounced by me in the open court on this day the 13th October, 2004).

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

For the Petitioner/Claimant : WW1 Sri R. Vijayakumar

For the II Party/Management : None

Documents Marked :—

Ex. No.	Date	Description
W1	20-11-00	Xerox copy of the joint statement given by staff of Thiruvannamalai branch.
W2	25-11-00	Xerox copy of the explanation given by concerned employee.
W3	01-12-00	Xerox copy of the suspension order.
W4	17-01-01	Xerox copy of the letter of Presenting Officer regarding List of Documents and witnesses.
W5	15-03-01	Xerox copy of the submission made by defence Representative on enquiry findings.
W6	21-04-01	Xerox copy of the written submissions made by concerned employee to Disciplinary Authority.
W7	02-07-02	Xerox copy of the 2A petition filed by Petitioner Union Before Regional Labour Commissioner (Central).
W8	30-07-02	Xerox copy of the remarks filed by II Party/management before Assistant Labour Commissioner.
W9	09-01-99	Xerox copy of the certificate of appreciation issued to concerned employee by Thiruvannamalai branch.
W10	23-04-98	Xerox copy of the certificate of appreciation issued to concerned employee by Villupuram branch.
W11	30-01-97	Xerox copy of the certificate of appreciation issued to concerned employee by Whites Road branch.

For the II Party/Management :—

Ex. No.	Date	Description
M1	16-12-00	Xerox copy of the charge sheet issued to concerned Employee.
M2	12-01-01	Xerox copy of the order issued by disciplinary Authority initiating enquiry.

Ex. No.	Date	Description
M3	07-02-01	Xerox copy of the enquiry notice
M4	09-02-01	Xerox copy of the enquiry proceedings.
M5	27-12-00	Xerox copy of the letter submitted by concerned employee.
M6	18-11-00	Xerox copy of the letter from Branch Manager, Thiruvannamalai branch to Central Office of Respondent
M7	18-11-00	Xerox copy of the letter submitted by Deputy Manager of Thiruvannamalai branch to Central Office.
M8	10-11-00	Xerox copy the letter of Sri S. Venganna in the enquiry
M9	07-03-01	Xerox copy of the letter of Disciplinary Authority to concerned employee enclosing enquiry findings.
M10	06-04-01	Xerox copy of the show cause notice issued to concerned employee.
M11	30-07-03	Xerox copy of the final order issued to concerned employee
M12	25-08-01	Xerox copy of the appeal preferred by concerned employee.
M13	04-12-01	Xerox copy of the order of Appellate Authority

नई दिल्ली, 23 फरवरी, 2005

का. आ. 1060.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण/प्रम न्यायालय, चंडीगढ़ के पंचाट (संदर्भ संख्या 231/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-2-2005 को प्राप्त हुआ था।

[सं. एल-12012/05/2001-आईआर (वी 1)]

सी० गंगाधरण, अदार सचिव

New Delhi, the 23rd February, 2004

S.O. 1060—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref No 231/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh, shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 22-2-2005.

[No. L-12012/05/2001-IR(B-1)]

C. GANGADHARAN, Under Secy

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT AT
CHANDIGARH

Presiding Officer : Shri Rajesh Kumar

Case No. I.D. No. 231/2001

Vir Bhan son of Rati Ram, Village and Post Office
Pundri, District Karnal

—Applicant

Versus

1. General Manager, State Bank of India, P.O. No. 208,
Sector 8-C, Chandigarh.

—Respondent

APPEARANCES

For the Workman : Mrs. Abha Rathore

For the Management : Shri V. K. Sharma

AWARD

The reference No. L-12012/5/2001-IR(B-1) dated 8th of June 2001 made under Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act). It reads as under :—

“Whether the action of the management of State Bank of India, branch office, Bohali, Panipat Refinery, Panipat in terminating the services of Shri Vir Bhan w.e.f. 28-5-94 is just and legal? If not, what relief the workman is entitled to?”

2. The case of the workman is that he was appointed as canteen-cum-water boy on the monthly wages of Rs. 300 in August 93 in SBI Bohali Branch Panipat District and during his employment his work and conduct remained satisfactory. That without any reason the services of the workman were terminated w.e.f. 28-5-94 vide letter No. 1017 is totally illegal and arbitrary manner and without assigning any reason. No notice or notice pay etc. was given prior to the termination and neither any enquiry was held nor any charge sheet was issued. That the management also appointed new persons in place of the workman and this action of the management is in contravention of Section 25H of the Act. He kept meeting the respondent and making representations for being taken back on duty but despite assurance he was not taken back on duty. He thereafter served a demand notice dated 6-7-98 stating therefore that the termination of his service is illegal and unjustified and against the principles of natural justice and in utter violation of Section 25F, G & H of the Act. He is also without any employment since his illegal termination.

3. The management of State Bank of India filed written statement and stated that General Manager of State Bank of India has been impleaded wrongly and no claim can be filed against the General Manager of the Bank. There is no statutory obligation on the Bank to provide canteen facility and that canteen facility is provided by Local Implementation Committee under the

welfare scheme of the bank and there is no relation of employer and employee.

4. On merits it is pleaded by the bank that workman was engaged by the Local Implementation Committee Bohali branch to supply tea to the staff posted there and was paid a fixed amount of Rs. 300/- per month i.e. the agreed amount between him and the LIC. Neither the bank appointed the workman nor there is any privity of contract. As the workman was not the employee of the bank nor his services were terminated, therefore, the question of issue of notice and holding of enquiry and serving of charge sheet does not arise. Neither the bank engaged him nor anybody else subsequent to discontinuation of his arrangement with LIC. It is urged that the claim petition of the workman is wrong.

5. Workman filed rejoinder to the written statement wherein he denied the allegation of the bank as incorrect and reaffirmed the averments made in his claim statement.

6. To prove its case, workman filed two affidavits the second one as additional affidavit whereas the management in this case filed affidavits of one Anil Malik branch manager dated 17-10-02 and Sanjiv Kumar Jain branch manager dated 19-8-2003. The workman produced himself as WW1 and he deposed on oath that he was appointed as a canteen-cum-water boy on monthly wages of Rs. 300/- in August 1993. He also filed payment sheets which bears his signatures as well as bank official Ex. P3. He also stated in affidavit that his series were illegally terminated on 28-5-94 without any notice and enquiry and that the management has engaged other workman. He was also making representation but no action was taken. In cross-examination he admitted that he was not issued any appointment letter by the bank. He was serving tea to the bank employees and he was also bringing water to them. Dharamjit was a cashier in the bank. He did not know whether Dharamjit was the Secretary of the LIC. On Ex. W5 there are the signatures of Dharamjit as well as his signatures were also there. He denied that he was the employee of the LIC. Ex. W5 is the document filed by the workman to prove that he was the bank employee and he was paid by the bank.

7. The management produced only one witness MW1 Anil Malik who deposed that workman was engaged by the LIC on casual labour for their canteen and no appointment letter was given to him as peon-cum-messenger. It is also stated that branch manager has got no power to make an appointment of Peon-cum-Messenger and so called appointment is ultra virus of the powers vested in the branch manager.

8. To prove the reference learned counsel for the workman in arguments submitted that the workman has proved his case not alone by evidence but also from the documents of the management. Learned counsel for the workman Mrs. Abha Rathore submitted that the workman was a employee of the State Bank of India and was working as canteen-cum-water boy. He was employed on a fixed salary of Rs. 300/- per month and the workman has proved by Ex. P3 payment sheet which bears the signatures of workman as well as signatures of Dharamjit

Cashier of the management of that branch. This document was exhibited as Ex. W5. It is stated that it bears the signatures of workman and the bank officer. The payment was always made by the bank to the workman and he was not the employee of the LIC. She also referred to a document Ex. W3 which is a document of the bank sent by the branch manager to the Assistant General Manager State bank of India, Region 3, Chandigarh. As per documents of the management Sanjiv Kumar was the branch manager w.e.f. April 1994 to April 1995 and this letter dated 22-7-94 was written to the AGM of Chandigarh between this period in July 1994. The contents of this letter is self explanatory. The subject is appointment of temporary employee in bank service and he has confirmed that they terminated the services of Vir Bhan a temporary employee who was doing the job of canteen-cum-water boy on 30-6-94 and this letter proves that the workman was a bank employee and not the employee of the LIC. In support of her arguments she also referred to the following judgments : (1) AIR 1978 Supreme Court 1410 Hussainbhai Vs. The Alath Factory Tezhalali Union and others (2) 1981 Lab. I. C. 806-AIR 1981 S.C. 1253 Mohan Lal Vs. The Management of M/s. Bharat Electronics Ltd. Learned counsel for the workman submitted that workman has proved its case that he was bank employee as per Ex. W3 and paid by Cashier Dharamjit of State Bank of India as bank official. Hence the reference may be decided in favour of the workman.

9. On the other hand in reply to the arguments of the learned counsel for the workman, Mr. V. K. Sharma, Manager law argued at length and submitted that workman has failed to prove that he was not the employee of the Local Implementation Committee (hereinafter to be referred as LIC). He submitted that in affidavit of Anil Malik and Sanjiv Kumar Jain it is stated on oath that the workman was engaged by the LIC as casual labour for their canteen and not by the bank. He was employed by the LIC as canteen labour and not as peon-cum-messenger. It is also stated in the affidavit that the branch manager has got no powers to make appointment as peon-cum-messenger so he can not appoint any peon-cum-messenger and the workman is not the employee of the bank. It is submitted by the bank authorized representative that the workman did not specifically state in his claim statement that he was appointed by the bank. He has referred to the para 1 of the claim statement that he was appointed as canteen-cum-water boy on monthly wages of Rs. 300/- per month in August 1993 in SBI Bohali Branch Panipat. He specifically evades saying that he was employed by the bank. Further in this evidence in cross-examination he has admitted that he was not issued any appointment letter by the bank. He was serving tea to the bank employees and was also giving water to them. Dharamjit was the cashier of the bank and admitted that on Ex. W5 there are signatures of the workman as well as the bank officer. Hence it proves that he was not the employee of the bank. He submitted that as he was the employee of the LIC and not of the bank, there was no priority of contract between the bank and the workman. He also referred a judgment AIR 2000 S.C. page 1518 and this authority of the Hon'ble Supreme Court is in the case of a State Bank of India itself held that

the employee of the canteen which are recruited at various branches by the LIC as per welfare scheme of the State Bank of India are not the employee of the bank as the bank is not having any statutory or contractual obligation to provide canteen facility.

10. It is also submitted that as the case is also filed against the General Manager State Bank of India and G. M. or the officer under him are no way are the employer and the workman has not preferred to implead the branch manager Bohali Branch, incharge of the LIC as President, his claim is also bad for non-joinder of the necessary party. He also submitted that in view of the judgment of the Hon'ble Supreme Court referred by him the workman is not the employee of the bank and there is no privity of contract between the parties and that branch manager was not made the party, workman failed to prove its case. He has also failed to prove that he is the employee of the bank and he is not entitled for any relief.

11. The reference is whether the action of the branch office SBI Bohali branch Panipat in terminating the services of the workman is just and as the branch manager has not been made party for the reasons best known to the workman and reference cannot be decided in favour of the workman and may be decided against the workman.

12. In view of the submission of the learned counsels of the parties and my perusal of the documents, evidence as well as oral arguments I found that the claim of the workman is based on the ground that he was appointed by the bank and his services were terminated in violation of Section 25F of the Act. Learned counsel for the workman mainly relied on the document Ex. W3 which is a document written by the Manager Bohali Branch Panipat Manager Sanjiv to AGM State Bank of India, Chandigarh wherein this Manager Sanjiv who has filed his affidavit also has termed his appointment as appointment of temporary employee and informed AGM, Chandigarh that the services of Vir Bhan temporary employee were terminated on 30-6-94. The workman has also mainly relied on Ex. W5 which is payment sheet which by its head titled Payment to Canteen Boy. This document is also filed by the workman and it relates to payment made to other workers also and payment of workman starts from August 1993. Workman has relied only on these two documents Ex. W3 and W5 and argued that on the basis of these two documents he is a bank employee and not an employee of LIC and entitled for all benefits as in claim statement. On the other hand the authorised representative of the management Mr. Sharma submitted that workman is employee of LIC and not of the bank. Relying on the judgement of Hon'ble Supreme Court in SBI case as referred above. It is also urged by Mr. Sharma that bank management has no power to appoint even a peon. No appointment letter was issued to the workman.

13. On perusal of document Ex. W3 payment sheet alone, I have found that this document itself speaks that it is a payment sheet of workman which bears workman signatures and of Dharamjit as Cashier of Bank. On careful examination of this document I found that Mr. Dharamjit has signed below in column meant for Secretary. He has

The Petitioner who was employed as gardener under the Respondent/Management on regular basis since April, 1998 to 21st September, 2000, on which date, his services were terminated by oral orders arbitrarily. The Petitioner was paid consolidated pay of Rs 1,000 per month at the time of dismissal. Prior to that date, the Petitioner has represented to the Regional Provident Fund Commissioner, Chennai to effect the statutory and other social security provisions. On coming to know about the said representation, the respondent/Management called the Petitioner on 20th September, 2000 and compelled him to affix signature on non-judicial blank stamp paper to the value of Rs. 10 and also in other blank papers for which they have given one day's time. But, the Petitioner did not yield to this threat and therefore, the Respondent/Management issued oral instructions of dismissal through NCO garden in charge and arbitrarily dismissed the services of the Petitioner and other six gardeners. The order passed by the Respondent/Management in not following the established procedure, is arbitrary, unjust, unfair, whimsical, unlawful, illegal and unconstitutional. Subsequent to that the Petitioner has raised the dispute before labour authorities and after the failure of conciliation, the matter was referred to this Tribunal. In the meantime, after the failure of conciliation efforts, the Respondent/Management *suo moto* came forward with the offer of appointment order considering the earlier service rendered by the Petitioner and the Petitioner and others have accepted the said appointment on economic reasons without prejudice to the legitimate entitlement. In the appointment order, the Respondent/Management has stated that the arrears would not be paid to the petitioner from the period of dismissal i.e. from 21-9-2000 to the date of reinstatement dated 20th April, 2003. It is illegal and unenforceable. Hence, the Petitioner prays to set aside the order of dismissals passed by the Respondent/Management as arbitrarily, punitive, illegal and against the principles of natural justice and direct the Respondent/Management to pay wages for the period of dismissal from 21st September, 2000 to 20th April, 2003 and also direct the Respondent to grant social security benefits like provident fund, pension ESI, D.A. and other consequential relief.

4. As against this, the Respondent in its Counter Statement contended that the Respondent/Management is not an industry under the definition of Industrial Disputes Act. The Respondent/Management is doing its statutory duties under the Constitution of India. Hence, this Tribunal has no jurisdiction in this matter and only Central Administrative Tribunal has got jurisdiction to decide on the order passed by the Respondent/Management with regard to service cases. It is false to allege that the Petitioner has worked from April, 1998 to 20-9-2000 on regular basis. The II Party/Management employed then and there some employees to meet temporary needs at a particular point of time for particular purpose which would arise then and there and not for a continuous period to maintain gardening of various children parks and regimental gardens in the II Party/Management and it was maintained as a welfare measure for the families of troops. There is no permanent post called as gardener in the II Party/Management and hence, there is no question of fixation of pay scale for the

Petitioner. The work of the gardener is not long term work and hence, there is no confirmation order passed to any of the persons involved to the above work. It is false to allege that the management has called on the Petitioner on 20-9-2000 and compelled and coerced him to affix signature on the couple of blank papers giving one day's time. There is no relationship of master and servant between the I and II Party. Wages of the temporary servants would be paid from subscription amount given by staff of army to the II Party/Management monthly towards the better welfare of battalions and they were employed totally on a casual basis. The Madras Regimental Centre cannot employ any civilian out of Govt. grants. Hence, the claim of the Petitioner cannot be sustained and the arbitration was made between the I and II Party on the factual position that wages were paid to I Party out of pockets of officials of army and they should not be heavily taxed in the guise of heavy payment of benefits from money contributed by Officials of army to Regimental Private Fund. Pursuant to arbitration award, the II Party/Management issued orders of appointment to the Petitioner subject to certain conditions and they have accepted the arbitrations award. Therefore, wages from the date of dismissal from 21-9-2000 to till the date of reinstatement namely 20-4-2003 would not arise at all and provisions of Section 2(s) of Industrial Disputes Act would not apply to the case of the Petitioner. The Petitioner had not questioned nor challenged the arbitration award passed and having signed the appointment order after agreed to all the terms and conditions, now the Petitioner cannot question the arbitration award. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. Again the Petitioner in his rejoinder contended that this Tribunal has got jurisdiction to entertain and to decide the industrial dispute and the contention of the respondent/Management is unsustainable and not valid. Giving repeated appointments to workmen for short duration to deprive their rights under section 25F of I.D. Act is unfair. There are different establishments and sub-establishments under the II Party/Management and there is functioning unity of ownership, supervision, finance and management and labour between the establishments and therefore, they should be treated as one establishment. The Petitioner and other gardeners worked for more than 240 days in a continuous period of 12 months and therefore, they are entitled to the benefits of I. D. Act. The alleged award is not an award within the meaning of Section 2(b) of the Act or under section 10A of the I.D. Act. When there is no arbitration or an award was reached between the parties, the question of challenging it does not arise. Signing the copy of the appointment order is only a token of receipt of it. Hence, for all these reasons, there is nothing to do with the arbitration award now claimed by the II Party/Management. Therefore, he prays that an award may be passed in his favour.

6. In such circumstances, the points for my determination are—

- (i) “Whether the action of the Commandant of Respondent/Management in terminating the services of the Petitioner is justified?”
- (ii) “To what relief the Petitioner is entitled?”

Point No. 1:

7. Though in this case, the termination of the services of the Petitioner was questioned, after the failure of conciliation report by conciliating authority, the Respondent/Management has reinstated the Petitioner in service on 20-4-2003 and therefore, the question of termination at this stage will not loom large. Therefore, we are mainly concerned in this case with regard to wages between the period from 21-9-2000 to 20-4-2003.

8. On behalf of the petitioner, it is contended that though the Petitioner has been taken back by the Respondent/Management into service, back wages on reinstatement has to be paid by the Respondent/Management. The denial of back wages is unjustified, especially when the Petitioner has been arbitrarily dismissed from service in flagrant violation of natural justice. It is also contended on behalf of the petitioner that even in the Respondent/Management document Ex. M2 namely the alleged Award passed between the Respondent/Management and the workmen in Appendix 'A' the date of appointment of Petitioner is mentioned as May, 1998. Further, it is also mentioned in the alleged award that the petitioner and other workmen were appointed long back and they are still in service till 20-9-2000 and therefore, it can be presumed from the circumstances that the Petitioner has been working as a gardener in the Respondent/Management for more than 240 days in a continuous period of 12 calendar months and therefore, he is entitled to the benefits as per the provisions of Labour Laws. Though the Respondent/Management has contended that they have no records to show their appointment, their wages and other relevant records, the Petitioner has produced Ex. W2 which is salary disbursement details for the month of October, 1998, December, 1998 and May, 1999, November, 1999, March, 2000 and April, 2000. From the said records, it is clear that the Petitioner and other workmen were working for all the days in the month and a consolidated pay of Rs. 1000/- to Rs. 1300/- was paid to the workmen. Further, from the records produced by the Petitioner, it is clear that the Respondent has wantonly withheld some of the documents which will clearly prove that the Petitioners are entitled to the provisions of Labour Laws. Under such circumstances, the Petitioner is entitled to the claim made by him.

9. But, as against this, on behalf of the Respondent it is contended that the burden of proving the fact that the Petitioner and other workmen are working under the Respondent/Management for more than 240 days in a continuous period of 12 calendar months is upon the Petitioner and the stray documents which the Petitioner produced before this Tribunal will not in any way prove that they are working for more than 240 days in a continuous period of 12 months. Further, the said documents will prove that the Petitioner and other workmen were engaged only for seasonal work and therefore, the Petitioner is not entitled to any benefits under Labour Laws. It is the further contention of the Respondent/Management that the Petitioner and other workmen were employed then and there to meet temporary needs at a particular points of time for a particular purpose which would arise then and there and not for a continuous period for maintaining gardens of

various children parks and regimental garden. The II Party/Management is doing statutory duties hence the Tribunal has no jurisdiction and only Central Administrative Tribunal has got jurisdiction to decide any order passed by any department with regard to service cases. Further, it is the contention of the Respondent that there is no question of permanent post namely gardener and there is no question of fixation of pay scale when the I Party has worked temporarily to meet the particular demand at a particular point of time. Therefore, the Petitioner is not entitled to claim any relief as prayed for.

10. In this case, to substantiate their claim, the Petitioner has examined himself as WW1 and marked the appointment order dated 20-4-2003 issued to Petitioner as Ex. W1 and extract of payment particulars as Ex. W2 series. On the other hand, the Respondent on their side examined one Major Virendra Pant as MW1 and Major Seethappa as MW2 and produced four documents namely alleged copy of arbitration award as Ex. M1, Certificate of appendix 'C' signed by Petitioner and other workmen agreeing for conciliation as Ex. M2 and the copy of the appointment order as Ex. M3 and the copy of failure of conciliation report submitted by conciliating authority as Ex. M4.

11. Now we will consider the contentions of respondent—

"Whether this Tribunal has jurisdiction to enquire into the matter or not?" — Though the Respondent has raised this plea in their Counter Statement, no argument or evidence is adduced on behalf of the Respondent with regard to this contention. Even otherwise, the Respondent has not produced any exemption from the Labour Laws. The representative of the Petitioner argued that the Supreme Court in several cases has held that sovereign functions strictly understood (alone) qualify for exemption not the economic adventures undertaken by the Govt. or even in departments with sovereign functions if there are units which are industries and they are substantially severable, they can be considered to come within section 2(j) of the I.D. Act. He further contended that the Respondent/Management is running Food Processing Training Centres (Bakery), non-canteen stores department, printing press and also cinema hall and maintaining gardens and for all these institutions they have employed more than 21 private ceiling non-Govt. Servants and they were paid wages out of regimental funds and not from the consolidated funds and therefore, the non academic, non-sovereign employees of educational training institutions are covered by the definition of workman under section 2(s) of the I.D. Act and they will be treated as workman of industry and therefore, the contention of the learned counsel for the Respondent is not valid in law. I find much force in the contention of the learned representative of the Petitioner.

12. The next contention of the learned counsel for the Respondent is that the petitioner was appointed only a seasonal casual labour i.e. to maintain the garden and they have not employed the Petitioner continuously, but the Respondent has not produced any document to show that

the Petitioner was engaged only for seasonal work. On the other hand, even in the alleged arbitration award, it is stated that the Petitioner and other workmen were engaged by the Respondent/Management for a long period. Furthermore, from the documents produced by the Petitioner namely Ex. W2 series, it is clear that they have worked for all the days in a month as gardener and they have received consolidated salary paid by the Respondent. Under such circumstances, I am not inclined to believe the contention of the Respondent that the Petitioner was engaged as a seasonal Casual Labour Temporarily for maintaining the garden of the Respondent/Management.

13. Then, again the learned counsel for the Respondent contended that the Petitioner and other workmen have agreed for a private arbitration and in that arbitration one Lt. Col., C. Benny was appointed as a Sole Arbitrator and after mediation, an award was passed and the Petitioner and other workmen have agreed to the terms of award. Under such circumstances, they cannot now contend against the award and they are estopped from disputing the same because they have not questioned the award passed by the Sole Arbitrator. Under such circumstances, since the Petitioner and other workmen were re-appointed as gardeners and they having agreed to the terms and conditions of the appointment order, now this claim is not maintainable before this Tribunal.

14. But, the representative of the Petitioner has contended that the Respondent/Management dismissed the Petitioner and other workmen arbitrarily from service with a malafide intention and this is a colourable exercise of powers. Arbitrary, unfair and unjust and therefore, they cannot now contend that the Petitioner and other workmen agree for the private arbitration and they have signed in the award of Sole Arbitrator. It is his further contention that even though the Respondent contended that the Petitioner and other workmen had accepted for the private arbitration, there is no agreement for appointment of private arbitrator, on the other hand, even under the notice dated 22-3-2003, Lt. Col. Paul George has stated that Commandant has nominated the Sole Arbitrator. It is not stated that as per agreement, the Arbitrator has been nominated. Under such circumstances, it cannot be said that there was an arbitration and it was accepted by the Petitioner and other workmen. With regard to the signature in the copy of the appointment order, it is only a token of receipt of it. Though the Respondent produced copy of the award with Appendix 'C', the appendix 'C' produced along with alleged arbitration award namely Ex.M1 is not the real Appendix 'C' because even in the report of the alleged Sole Arbitrator in para 8 he has mentioned that letters dated 20-3-2003 and 22-3-2003 are enclosed as Appendix 'B' and 'C' respectively. But, now in the arbitration award, there is no Appendix 'B' but Appendix 'C' as enclosed relates to mere acknowledgement of receipt of order. Therefore, it cannot be said that arbitration award was accepted by the Petitioner and other workmen. The said letter was obtained by undue influence of the Respondent/Management because at no point of time, the Petitioner and other workmen accepted for sole arbitration after the failure of conciliation before the Labour authorities. It is his further contention that the

Arbitration Award is not consonance with the Industrial Laws. It was not passed as per Section 10A of I.D. Act nor under any law. There is no representative for the workmen side who has associated with the alleged arbitration proceedings and in the absence of which the alleged arbitration is bad in law and it is not sustainable. Further, the settlement alleged to have been reached between the parties that there shall be no arrears of back wages is unlawful and opposed to public policy and the Petitioner and other workmen never accepted the contention that back wages need not be paid for the period which the Respondent has unlawfully disengaged the Petitioner and other workmen. Further, it is not established before this Court that this letter Ex. M2 was given by the Petitioner after knowing the contents of the said letter. It is his further argument that giving repeated appointment to workman for short duration was to deprive them the rights under section 25F of the I.D. Act which is unfair. In this case, the Respondent/Management has want only to deprive the rights of the Petitioner and other workmen had disengaged the workmen and subsequently in view of the judgement in Writ Petition filed by the Food Processing Training Centre workmen in High Court, the Respondent/Management again reinstated the Petitioner and other workmen but without any back wages which is unlawful and not sustainable in law.

15. I find some force in the contention of the Representative for the Petitioner. Further, in the W.P. No. 17457/99 one Mr. P. Ramakrishnan and Mr. V.K. Mohandas who are working in Food Processing Training Centre have filed Writ Petition when they were disengaged by the same Respondent/Management. In that Writ Petition also the Respondent contended that they were engaged only as seasonal workers. But, the High Court had rejected the contention of the Respondent/Management and directed the Respondent/Management to regularise the services of the said persons. Now the Respondent contended that there is separate funds for running Food Processing Training Centre and it was not run from the Regimental funds and therefore, the Petitioner cannot compare the appointment of S/Sri Ramakrishnan & Mohandas for their work.

16. But, here again, I find there is no point in the contention of the learned counsel for the Respondent because, I find from the judgement of High Court that the Respondent has taken the stand that the Food Processing Training Centre is running from the Regimental funds and therefore, I find the Respondent has taken a different stand in different forums. Further, when the Petitioner has filed a petition for production of documents which are in the custody of the Respondent, the Respondent/Management has contended that there was no such document in their custody and they were not maintaining any records with regard to the Petitioner and other workmen. When the Petitioner has produced Ex. W2, it is clear that the Respondent has got registers to show that the Petitioner's engagement as a gardener, the appointment and wages for the said persons. Under such circumstances, the Respondent has want only taken the stand that the

Petitioners are temporary casual labourers and they are seasonal workers worked in gardens. I find there is no truth in the contention of the Respondent that the Petitioners were working only as seasonal casual labourers.

17. Then, again the learned counsel for the Respondent contended that burden of proving the fact that the Petitioners are working continuously for more than 240 days in a continuous period of 12 calendar months is upon them, but in this case, they have not produced any substantial evidence to prove that they are in continuous employment under the Respondent for more than 240 days in a period of 12 calendar months and therefore they are not entitled to any relief. It is his further contention that since the Petitioners are reinstated in service, there need not be any relief asked by them, when they have agreed for the arbitration award and therefore, the claim of the Petitioner is to be rejected by this Tribunal.

18. But, I find there is no point in the contention of the learned counsel for the Respondent because it is clear that the Petitioner and other workmen were working for more than 240 days in a continuous period of 12 calendar months and the documents produced by the Petitioner clearly prove the circumstances that the Respondent want only suppressed before this Tribunal to produce the documents required by the Petitioner. Under such circumstances, this Court can presume that the Petitioner has worked for more than 240 days in a continuous period of 12 calendar months and therefore, the retrenchment of the Petitioner by the Respondent/Management is not valid under law. Even though they have reinstated in service, they were not paid back wages. The reason given by the Respondent that they have agreed to the conditions of private arbitration award and hence they are estopped from questioning the award is not valid, since there is no proof that the Petitioner had agreed for arbitration and also the Award. Under such circumstances, I find the action of the Respondent/Management in terminating the services of the Petitioner is not justified and therefore, the Petitioner is entitled for back wages for the period from 21-09-2000 to 20-04-2003. With regard to other relief claimed by the Petitioner, I find as the Petitioner and other workmen are not regularised in service, as per Labour Laws, they are entitled for temporary status.

Point No. 2 :

The next point to be decided in this case is to what relief the Petitioner is entitled?

19. In view of my foregoing findings, I find the action of the Respondent/Management in terminating the services of the Petitioner is not justified and therefore, the Petitioner is entitled for back wages from 21-09-2000 to 20-04-2003. Ordered accordingly. No Costs.

20. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 28th October, 2004)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

For the Petitioner/Workman : WW 1 Sri Satish Kumar
For the II Party/Management : MW 1 Maj. Virendra Pant
MW 2 Maj. Seethappa

Documents Marked :—

For the I Party/Workman :—

Ex. No.	Date	Description
W1	20-04-03	Xerox copy of the appointment order issued to Petitioner.
W2 series	Nil	Extract of payment particulars.

For the II Party/Workman :—

Ex. No.	Date	Description
M1	Nil	Arbitration Award
M2	10-04-03	Appendix 'C' signed by Petitioner and other workmen 'As per arbitration proceedings.'
M3	20-04-03	Xerox copy of the appointment order of Petitioner.
M4	27-12-02	Xerox copy of the failure of conciliation report.

नई दिल्ली, 23 फरवरी, 2005

का.आ. 1062.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार मद्रास रेजीमेंटल सेन्टर के प्रबंधित के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारक त्रैम न्यायालय चैनरी के पंचाट (संदर्भ संख्या 88/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-02-2005 को प्राप्त हुआ था।

[सं. एल-14012/4/2003-आई आर (डी यू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 23rd February, 2005

S.O. 1062.—In Pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 88/2003) of the Central Government Industrial Tribunal Labour Court, Chennai now as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Madras Regimental Centre and their workmen, which was received by the Central Government on 23-02-2005.

[No. L-14012/4/2003-JR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE : CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI

Thursday, the 28th October, 2004

PRESENT:

K. JAYARAMAN Presiding Officer

INDUSTRIAL DISPUTE NO. 88/2003

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Madras Regimental Centre and their workmen).

BETWEEN

Sri R. Krishnamurthy : Ist Party/Workman
AND
 The Commandant, : IInd Party/Management
 Madras Regimental Centre,
 Wellington, Nilgiris.

APPEARANCE:

For the Workman : Sri A. Natarajan,
 Authorised Representative
 For the Management : Sri K.M. Venugopal,
 ACGSC

AWARD

The Central Government, Ministry of Labour vide Order No. L-14012/4/2003-IR(DU) dated 14-05-2003 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :—

“Whether the action of the commandant, Madras Regimental Centre, Wellington in terminating the services of Shri R. Krishnamurthy is justified? If not, to what relief he is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 88/2003 and notices were issued to both the parties and both the parties entered appearance through their Authorised Representative and Advocate respectively and filed their Claim Statement and Counter Statement.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner who was employed as gardener under the Respondent/Management on regular basis since 1994 to 21st September, 2000, on which date, his services were terminated by oral orders arbitrarily. The Petitioner was paid consolidated pay of Rs 1,100 per month at the time of dismissal. Prior to that date, the Petitioner has represented to the Regional Provident Fund Commissioner, Chennai to effect the statutory and other social security provisions. On coming to know about the said representation, the Respondent/Management called the Petitioner on 20th September, 2000 and compelled him to affix signature on non-judicial blank stamp paper to the value of Rs. 10 and also in other blank papers for which they have given one day's time. But, the Petitioner did not yield to this threat and therefore, the Respondent/Management issued oral instructions of dismissal through NCO garden in charge and arbitrarily dismissed the services of the Petitioner and other six gardeners. The order passed by the Respondent/Management in not following the established procedure, is arbitrary, unjust, unfair, whimsical, unlawful, illegal and unconstitutional. Subsequent to that the Petitioner has raised the dispute before labour authorities and after the failure of conciliation, the matter was referred to this Tribunal. In the meantime, after the failure of conciliation efforts, the Respondent/Management *suo moto* came forward with the offer of appointment order considering the earlier service rendered by the Petitioner and the Petitioner and others have accepted the said appointment on economic reasons without prejudice to the legitimate entitlement. In the appointment order, the Respondent/

Management has stated that the arrears would not be paid to the petitioner from the period of dismissal i.e. from 21-9-2000 to the date of reinstatement dated 20th April, 2003. It is illegal and unenforceable. Hence, the Petitioner prays to set aside the order of dismissals passed by the Respondent/Management as arbitrarily, punitive, illegal and against the principles of natural justice and direct the Respondent/Management to pay wages for the period of dismissal from 21st September, 2000 to 20th April, 2003 and also direct the Respondent to grant social security benefits like provident fund, pension ESI, D.A. and other consequential relief.

4. As against this, the Respondent in its Counter Statement contended that the Respondent/Management is not an industry under the definition of Industrial Disputes Act. The Respondent/Management is doing its statutory duties under the Constitution of India. Hence, this Tribunal has no jurisdiction in this matter and only Central Administrative Tribunal has got jurisdiction to decide on the order passed by the Respondent/Management with regard to service cases. It is false to allege that the Petitioner has worked from 1994 to 20-9-2000 on regular basis. The IInd Party/Management employed then and there some employees to meet temporary needs at a particular point of time for particular purpose which would arise then and there and not for a continuous period to maintain gardening in of various children parks and regimental gardens in the IInd Party/Management and it was maintained as a welfare measure for the families of troops. There is no permanent post called as gardener in the IInd Party/Management and hence, there is no question of fixation of pay scale for the Petitioner. The work of the gardener is not long term work and hence, there is no confirmation order passed to any of the persons involved to the above work. It is false to allege that the management has called on the Petitioner on 20-9-2000 and compelled and coerced him to affix signature on the couple of blank papers giving one day's time. There is no relationship of master and servant between the I and IInd Party. Wages of the temporary servants would be paid from subscription amount given by staff of army to the IInd Party/Management monthly towards the better welfare of battalions and they were employed totally on a casual basis. The Madras Regimental Centre cannot employ any civilian out of Govt. grants. Hence, the claim of the Petitioner cannot be sustained and the arbitration was made between the I and IInd Party on the factual position that wages were paid to Ist Party out of pockets of officials of army and they should not be heavily taxed in the guise of heavy payment of benefits from money contributed by Officials of army to Regimental Private Fund. Pursuant to arbitration award, the IInd Party/Management issued orders of appointment to the Petitioner subject to certain conditions and they have accepted the arbitration award. Therefore, wages from the date of dismissal from 21-9-2000 to till the date of reinstatement namely 20-4-2003 would not arise at all and provisions of Section 2(s) of Industrial Disputes Act would not apply to the case of the Petitioner. The Petitioner had not questioned nor challenged the arbitration award passed and having signed the appointment order after agreed to all the terms and conditions, now the Petitioner cannot question the arbitration award. Hence, for all these

reasons, the Respondent prays that the claim may be dismissed with costs.

5. Again the Petitioner in his rejoinder contended that this Tribunal has got jurisdiction to entertain and to decide the Industrial Dispute and the contention of the Respondent/Management is unsustainable and not valid. Giving repeated appointments to workmen for short duration to deprive their rights under Section 25-F of I.D. Act is unfair. There are different establishments and sub-establishments under the II Party/Management and there is functioning unity of ownership, supervision, finance and management and labour between the establishments and therefore, they should be treated as one establishment. The Petitioner and other gardeners worked for more than 240 days in a continuous period of 12 months and therefore, they are entitled to the benefits of I. D. Act. The alleged award is not an award within the meaning of Section 2(b) of the Act or under Section 10A of the I.D. Act. When there is no arbitration or an award was reached between the parties, the question of challenging it does not arise. Signing the copy of the appointment order is only a token of receipt of it. Hence, for all these reasons, there is nothing to do with the arbitration award now claimed by the II Party/Management. Therefore, he prays that an award may be passed in his favour.

6. In such circumstances, the points for my determination are—

- (i) "Whether the action of the Commandant of Respondent/Management in terminating the services of the Petitioner is justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point No. 1:

7. Though in this case, the termination of the services of the Petitioner was questioned, after the failure of conciliation report by conciliating authority, the Respondent/Management has reinstated the Petitioner in service on 20-4-2003 and therefore, the question of termination at this stage will not loom large. Therefore, we are mainly concerned in this case with regard to wages between the period from 21-9-2000 to 20-4-2003.

8. On behalf of the petitioner, it is contended that though the Petitioner has been taken back by the Respondent/Management into service, back wages on reinstatement has to be paid by the Respondent/Management. The denial of back wages is unjustified, especially when the Petitioner has been arbitrarily dismissed from service in flagrant violation of natural justice. It is also contended on behalf of the Petitioner that even in the Respondent/Management document Ex. M2 namely the alleged Award passed between the Respondent/Management and the workmen in Appendix 'A' the date of appointment of Petitioner is mentioned as September, 1995. Further, it is also mentioned in the alleged award that the Petitioner and other workmen were appointed long back and they are still in service till 20-9-2000 and therefore, it can be presumed from the circumstances that the Petitioner has been working as a gardener in the Respondent/Management for more than 240 days in a continuous period

of 12 calendar months and therefore, he is entitled to the benefits as per the provisions of Labour Laws. Though the Respondent/Management has contended that they have no records to show their appointment, their wages and other relevant records, the Petitioner has produced Ex. W2 which is salary disbursement details for the month of October, 1998, December, 1998 and May, 1999, November, 1999, March, 2000 and April, 2000. From the said records, it is clear that the Petitioner and other workmen were working for all the days in the month and a consolidated pay of Rs. 1000 to Rs. 1300 was paid to the workmen. Further, from the records produced by the Petitioner, it is clear that the Respondent has wantonly withheld some of the documents which will clearly prove that the Petitioners are entitled to the provisions of Labour Laws. Under such circumstances, the Petitioner is entitled to the claim made by him.

9. But, as against this, on behalf of the Respondent it is contended that the burden of proving the fact that the Petitioner and other workmen are working under the Respondent/Management for more than 240 days in a continuous period of 12 calendar months is upon the Petitioner and the stray documents which the Petitioner produced before this Tribunal will not in any way prove that they are working for more than 240 days in a continuous period of 12 months. Further, the said documents will prove that the Petitioner and other workmen were engaged only for seasonal work and therefore, the Petitioner is not entitled to any benefits under Labour Laws. It is the further contention of the Respondent/Management that the Petitioner and other workmen were employed then and there to meet temporary needs at a particular point of time for a particular purpose which would arise then and there and not for a continuous period for maintaining gardens of various children parks and regimental garden. The II Party/Management is doing statutory duties hence the Tribunal has no jurisdiction and only Central Administrative Tribunal has got jurisdiction to decide any order passed by any department with regard to service cases. Further, it is the contention of the Respondent that there is no question of permanent post namely gardener and there is no question of fixation of pay scale when the I Party was worked temporarily to meet the particular demand at a particular point of time. Therefore, the Petitioner is not entitled to claim any relief as prayed for.

10. In this case, to substantiate their claim, the Petitioner has examined himself as WW1 and marked the appointment order dated 20-4-2003 issued to Petitioner as Ex. W1 and extract of payment particulars as Ex. W2 series. On the other hand, the Respondent on their side examined one Major Virendra Pant as MW1 and Major Seethappa as MW2 and produced three documents namely alleged copy of arbitration award as Ex. M1, Certificate of Appendix 'C' signed by Petitioner and other workmen agreeing for conciliation as Ex. M2 and the copy of failure of conciliation report submitted by conciliating authority as Ex. M3.

11. Now we will consider the contentions of respondent—

"Whether this Tribunal has jurisdiction to enquire into the matter or not?" — Though the Respondent

has raised this plea in their Counter Statement, no argument or evidence is adduced on behalf of the Respondent with regard to this contention. Even otherwise, the Respondent has not produced any exemption from the Labour Laws. The representative of the Petitioner argued that the Supreme Court in several cases has held that sovereign functions strictly understood (alone) qualify for exemption not the economic adventures undertaken by the Govt. or even in departments with sovereign functions if there are units which are industries and they are substantially severable, they can be considered to come within section 2(j) of the I.D. Act. He further contended that the Respondent/Management is running Food Processing Training Centres (Bakery), non-canteen stores department, printing press and also cinema hall and maintaining gardens and for all these institutions they have employed more than 21 private ceiling non-Govt. Servants and they were paid wages out of regimental funds and not from the consolidated funds and therefore, the non-academic, non-sovereign employees of educational training institutions are covered by the definition of workman under section 2(s) of the I.D. Act and they will be treated as workman of industry and therefore, the contention of the learned counsel for the Respondent is not valid in law. I find much force in the contention of the learned representative of the Petitioner.

12. The next contention of the learned counsel for the Respondent is that the petitioner was appointed only a seasonal casual labour i.e. to maintain the garden and they have not employed the Petitioner continuously, but the Respondent has not produced any document to show that the Petitioner was engaged only for seasonal work. On the other hand, even in the alleged arbitration award, it is stated that the Petitioner and other workmen were engaged by the Respondent/Management for a long period. Furthermore, from the documents produced by the Petitioner namely Ex. W2 series, it is clear that they have worked for all the days in a month as gardener and they have received consolidated salary paid by the Respondent. Under such circumstances, I am not inclined to believe the contention of the Respondent that the Petitioner was engaged as a seasonal Casual Labour Temporarily for maintaining the garden of the Respondent/Management.

13. Then, again the learned counsel for the Respondent contended that the Petitioner and other workmen have agreed for a private arbitration and in that arbitration one Lt. Col., C. Benny was appointed as a Sole Arbitrator and after mediation, an award was passed and the Petitioner and other workmen have agreed to the terms of award. Under such circumstances, they cannot now contend against the award and they are estopped from disputing the same because they have not questioned the award passed by the Sole Arbitrator. Under such circumstances, since the Petitioner and other workmen were reappointed as gardeners and they having agreed to the terms and conditions of the appointment order, now this claim is not maintainable before this Tribunal.

14. But, the representative of the Petitioner has contended that the Respondent/Management dismissed the Petitioner and other workmen arbitrarily from service with a malafide intention and this is a colourable exercise of powers. Arbitrary, unfair and unjust and therefore, they cannot now contend that the Petitioner and other workmen agree for the private arbitration and they have signed in the award of Sole Arbitrator. It is his further contention that even though the Respondent contended that the Petitioner and other workmen had accepted for the private arbitration, there is no agreement for appointment of private arbitrator, on the other hand, even under the notice dated 22-3-2003, Lt. Col. Paul George has stated that Commandant has nominated the Sole Arbitrator. It is not stated that as per agreement, the Arbitrator has been nominated. Under such circumstances, it cannot be said that there was an arbitration and it was accepted by the Petitioner and other workmen. With regard to the signature in the copy of the appointment order, it is only a token of receipt of it. Though the Respondent produced copy of the award with Appendix 'C', the Appendix 'C' produced along with alleged arbitration award namely Ex.M1 is not the real Appendix 'C' because even in the report of the alleged Sole Arbitrator in para 8 he has mentioned that letters dated 20-3-2003 and 22-3-2003 are enclosed as Appendix 'B' and 'C' respectively. But, now in the arbitration award, there is no Appendix 'B' but Appendix 'C' as enclosed relates to mere acknowledgement of receipt of order. Therefore, it cannot be said that arbitration award was accepted by the Petitioner and other workmen. The said letter was obtained by undue influence of the Respondent/Management because at no point of time, the Petitioner and other workmen accepted for sole arbitration after the failure of conciliation before the Labour authorities. It is his further contention that the Arbitration Award is not consonance with the Industrial Laws. It was not passed as per Section 10A of I.D. Act nor under any law. There is no representative for the workmen side who has associated with the alleged arbitration proceedings and in the absence of which the alleged arbitration is bad in law and it is not sustainable. Further, the settlement alleged to have been reached between the parties that there shall be no arrears of back wages is unlawful and opposed to public policy and the Petitioner and other workmen never accepted the contention that back wages need not be paid for the period which the Respondent has unlawfully disengaged the Petitioner and other workmen. Further, it is not established before this Court that this letter Ex. M2 was given by the Petitioner after knowing the contents of the said letter. It is his further argument that giving repeated appointment to workman for short duration was to deprive them the rights under section 25F of the I.D. Act which is unfair. In this case, the Respondent/Management has wantonly to deprive the rights of the Petitioner and other workmen had disengaged the workmen and subsequently in view of the judgement in Writ Petition filed by the Food Processing Training Centre workers in High Court, the Respondent/Management again reinstated the Petitioner and other workmen but without any back wages which is unlawful and not sustainable in law.

15. I find some force in the contention of the Representative for the Petitioner. Further, in the W.P. No. 17457/99 one Mr. P. Ramakrishnan and Mr. V.K. Mohandas who are working in Food Processing Training Centre have filed Writ Petition when they were disengaged by the same Respondent/Management. In that Writ Petition also the Respondent had contended that they were engaged only as seasonal workers. But, the High Court had rejected the contention of the Respondent/Management and directed the Respondent/Management to regularise the services of the said persons. Now the Respondent contended that there is separate funds for running Food Processing Training Centre and it was not run from the Regimental funds and therefore, the Petitioner cannot compare the appointment of S/Sri Ramakrishnan & Mohandas for their work.

16. But, here again, I find there is no point in the contention of the learned counsel for the Respondent because, I find from the judgement of High Court that the Respondent has taken the stand that the Food Processing Training Centre is running from the Regimental funds and therefore, I find the Respondent has taken a different stand in different forums. Further, when the Petitioner has filed a petition for production of documents which are in the custody of the Respondent, the Respondent/Management has contended that there was no such document in their custody and they were not maintaining any records with regard to the Petitioner and other workmen. When the Petitioner has produced Ex. W2, it is clear that the Respondent has got registers to show that the Petitioner's engagement as a gardener, the appointment and wages for the said persons. Under such circumstances, the Respondent has wantonly taken the stand that the Petitioners are temporary casual labourers and they are seasonal workers worked in gardens. I find there is no truth in the contention of the Respondent that the Petitioners were working only as seasonal causal labourers.

17. Then, again the learned counsel for the Respondent contended that burden of proving the fact that the Petitioners are working continuously for more than 240 days in a continuous period of 12 calendar months is upon them, but in this case, they have not produced any substantial evidence to prove that they are in continuous employment under the Respondent for more than 240 days in a period of 12 calendar months and therefore they are not entitled to any relief. It is his further contention that since the Petitioners are reinstated in service, there need not be any relief asked by them, when they have agreed for the arbitration award and therefore, the claim of the Petitioner is to be rejected by this Tribunal.

18. But, I find there is no point in the contention of the learned counsel for the Respondent because it is clear that the Petitioner and other workmen were working for more than 240 days in a continuous period of 12 calendar months and the documents produced by the Petitioner clearly prove the circumstances that the Respondent wantonly suppressed before this Tribunal to produce the documents required by the Petitioner. Under such

circumstances, this Court can presume that the Petitioner has worked for more than 240 days in a continuous period of 12 calendar months and therefore, the retrenchment of the Petitioner by the Respondent/Management is not valid under law. Even though they have reinstated in service, they were not paid back wages. The reason given by the Respondent that they have agreed to the conditions of private arbitration award and hence they are estopped from questioning the award is not valid, since there is no proof that the Petitioner had agreed for arbitration and also the Award. Under such circumstances, I find the action of the Respondent/Management in terminating the services of the Petitioner is not justified and therefore, the Petitioner is entitled for back wages for the period from 21-09-2000 to 20-04-2003. With regard to other relief claimed by the Petitioner, I find as the Petitioner and other workmen are not regularised in service, as per Labour Laws, they are entitled for temporary status.

Point No. 2 :

The next point to be decided in this case is to what relief the Petitioner is entitled?

19. In view of my foregoing findings, I find the action of the Respondent/Management in termination the services of the Petitioner is not justified and therefore, the Petitioner is entitled for back wages from 21-09-2000 to 20-04-2003. Ordered accordingly. No Costs.

20. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 28th October, 2004)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the Petitioner/Workman : WW 1 Sri R. Krishnamurthy

For the II Party/Management : MW 1 Maj. Virendra Pant
MW 2 maj. Seethappa

Documents Marked :

For the I Party/Workman :

Ex. No.	Date	Description
W1	20-04-03	Xerox copy of the appointment order issued to Petitioner.
W2 series	Nil	Extract of payment particulars.

For the II Party/Workman :

Ex. No.	Date	Description
M1	Nil	Arbitration Award
M2	10-04-03	Appendix 'C' signed by Petitioner and other workmen As per arbitration proceedings.
M3	01-01-03	Xerox copy of the failure of conciliation report.

नई दिल्ली, 23 फरवरी, 2005

का.आ. 1063.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मद्रास रेजीमेन्टल सेन्टर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 89/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-02-2005 को प्राप्त हुआ था।

[सं. एल-14012/5/2003-आई आर (डी यू)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 23rd February, 2005

S.O. 1063.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 89/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Madras Regimental Centre and their workmen, which was received by the Central Government on 23-02-2005.

[No. L-14012/5/2003-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 28th October, 2004

PRESENT:

K. JAYARAMAN, Presiding Officer
Industrial Dispute No. 89/2003

(In the matter of dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Madras Regimental Centre and their workmen).

BETWEEN:

Sri C. Murugan : I Party/Workman

AND

The Commandant, Madras Regimental Centre, Wellington, Nilgiris. : II Party/Management

APPEARANCE:

For the Workman : Sri A. Natarajan,
Authorised Representative

For the Management : Sri K.M. Venugopal, ACGSC

AWARD

The Central Government, Ministry of Labour vide Order No. L-14012/5/2003-IR(DU) dated 14-05-2003 has

referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :—

“Whether the action of the Commandant, Madras Regimental Centre, Wellington in terminating the services of Shri C. Murugan is justified? If not, to what relief he is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 89/2003 and notices were issued to both the parties and both the parties entered appearance through their Authorised Representative and Advocate respectively and filed their Claim Statement and Counter Statement.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner who was employed as Gardener under the Respondent/Management on regular basis since 1986 to 1990 and from 1997 to 21st September, 2000, on which date, his services were terminated by oral orders arbitrarily. The Petitioner was paid consolidated pay of Rs. 1,200/- per month at the time of dismissal. Prior to that date, the Petitioner has represented to the Regional Provident Fund Commissioner, Chennai to effect the statutory and other social security provisions. On coming to know about the said representation, the Respondent/Management called the Petitioner on 20th September, 2000 and compelled him to affix signature on non-judicial blank stamp paper to the value of Rs. 10/- and also in other blank papers for which they have given one day's time. But the Petitioner did not yield to this threat and therefore, the Respondent/Management issued oral instructions of dismissal through NCO garden in charge and arbitrarily dismissed the services of the Petitioner and other six gardeners. The order passed by the Respondent/Management in not following the established procedure, is arbitrary, unjust, unfair, whimsical, unlawful, illegal and unconstitutional. Subsequent to that the Petitioner has raised the dispute before labour authorities and after the failure of conciliation, the matter was referred to this Tribunal. In the meantime, after the failure of conciliation efforts, the Respondent/Management *suo moto* came forward with the offer of appointment order considering the earlier service rendered by the Petitioner and the Petitioner and others have accepted the said appointment on economic reasons without prejudice to the legitimate entitlement. In the appointment order, the Respondent/Management has stated that the arrears would not be paid to the Petitioner from the period of dismissal *i.e.* from 21-9-2000 to the date of reinstatement dated 20th April, 2003. It is illegal and unenforceable. Hence, the Petitioner prays to set aside the order of dismissal passed by the Respondent/Management as arbitrary, punitive, illegal and against the principles of natural justice and direct the Respondent/Management to pay wages for the period of dismissal from 21st September, 2000 to 20th April, 2003 and also direct

the Respondent to grant social security benefits like provident fund, pension, ESI, D.A. and other consequential relief.

4. As against this, the Respondent in its Counter Statement contended that the Respondent/Management is not an industry under the definition of Industrial Disputes Act. The Respondent/Management is doing its statutory duties under the Constitution of India. Hence, this Tribunal has no jurisdiction in this matter and only Central Administrative Tribunal has got jurisdiction to decide on the order passed by the Respondent/Management with regard to service cases. It is false to allege that the Petitioner has worked from 1986 to 1990 and from 1997 to 20-9-2000 on regular basis. The II Party/Management employed then and there some employees to meet temporary needs at a particular point of time for particular purpose which would arise then and there and not for a continuous period to maintain gardening of various children parks and regimental gardens in the II Party/Management and it was maintained as a welfare measure for the families of troops. There is no permanent post called as gardener in the II Party/Management and hence, there is no question of fixation of pay scale of the Petitioner. The work of the gardener is not long term work and hence, there is no confirmation order passed to any of the persons involved to the above work. It is false to allege that the management has called on the Petitioner on 20-9-2000 and compelled and coerced him to affix signature on the couple of blank papers giving one day's time. There is no relationship of master and servant between the I and II Party. Wages of the temporary servants would be paid from subscription amount given by staff of army to the II Party/Management monthly towards the better welfare of battalions and they were employed totally on a casual basis. The Madras Regimental Centre cannot employ any civilian out of Govt. grants. Hence, the claim of the Petitioner cannot be sustained and the arbitration was made between the I and II Party on the factual position that wages were paid to I Party out of pockets of officials of army and they should not be heavily taxed in the guise of heavy payment of benefits from money contributed by officials of army to Regimental Private Fund. Pursuant to arbitration award, the II Party/Management issued orders of appointment to the Petitioner subject to certain conditions and they have accepted the arbitration award. Therefore, wages from the date of dismissal from 21-9-2000 to till the date of reinstatement namely 20-4-2003 would not arise at all and provisions of Section 2(s) of Industrial Disputes Act would not apply to the case of the Petitioner. The Petitioner had not questioned nor challenged the arbitration award passed and having signed the appointment order after agreed to all the terms and conditions, now the Petitioner cannot question the arbitration award. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. Again the Petitioner in his rejoinder contended that this Tribunal has got jurisdiction to entertain and to decide the industrial dispute and the contention of the Respondent/Management is unsustainable and not valid. Giving repeated appointments to workmen for short

duration to deprive their rights under section 25F of I.D. Act is unfair. There are different establishments and sub-establishments under the II Party/Management and there is functioning unity of ownership, supervision, finance and management and labour between the establishments and therefore, they should be treated as one establishment. The Petitioner and other gardeners worked for more than 240 days in a continuous period of 12 months and therefore, they are entitled to the benefits of I.D. Act. The alleged award is not an award within the meaning of Section 2(b) of the Act or under section 10A of the I.D. Act. When there is no arbitration or an award was reached between the parties, the question of challenging it does not arise. Signing the copy of the appointment order is only a token of receipt of it. Hence, for all these reasons, there is nothing to do with the arbitration award now claimed by the II Party/Management. Therefore, he prays that an award may be passed in his favour.

6. In such circumstances, the points for my determination are :—

- (i) "Whether the action of the Commandant of Respondent/Management in terminating the services of the Petitioner is justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point No. 1 :—

7. Though in this case, the termination of the services of the Petitioner was questioned, after the failure of conciliation report by conciliating authority, the Respondent/Management has reinstated the Petitioner in service on 20-4-2003 and therefore, the question of termination at this stage will not loom large. Therefore, we are mainly concerned in this case with regard to wages between the period from 21-9-2000 to 20-4-2003.

8. On behalf of the Petitioner, it is contended that though the Petitioner has been taken back by the Respondent/Management into service, back wages on reinstatement has to be paid by the Respondent/Management. The denial of back wages is unjustified, especially when the Petitioner has been arbitrarily dismissed from service in flagrant violation of natural justice. It is also contended on behalf of the Petitioner that even in the Respondent/Management document Ex. M2 namely the alleged Award passed between the Respondent/Management and the workmen in Appendix 'A', the date of appointment of Petitioner is mentioned as July, 1997. Further, it is also mentioned in the alleged award that the Petitioner and other workmen were appointed long back and they are still in service till 20-9-2000 and therefore, it can be presumed from the circumstances that the Petitioner has been working as a gardener in the Respondent/Management for more than 240 days in a continuous period of 12 calendar months and therefore, he is entitled to the benefits as per the provisions of Labour Laws. Though the Respondent/Management has contended that they have no records to show their appointment, their wages and other relevant records, the Petitioner has produced Ex. W2 which is salary disbursement details for the month of October, 1998, December, 1998 and May, 1999, November, 1999, March,

2000 and April, 2000. From the said records, it is clear that the Petitioner and other workmen were working for all the days in the month and a consolidated pay of Rs. 1000/- to Rs. 1300/- was paid to the workmen. Further, from the records produced by the Petitioner, it is clear that the Respondent has want only withheld some of the documents which will clearly prove that the Petitioners are entitled to the provisions of Labour Laws. Under such circumstances, the Petitioner is entitled to the claim made by him.

9. But, as against this, on behalf of the Respondent it is contended that the burden of proving the fact that the Petitioner and other workmen are working under the Respondent/Management for more than 240 days in a continuous period of 12 calendar months is upon the Petitioner and the stray documents which the Petitioner produced before this Tribunal will not in any way prove that they are working for more than 240 days in a continuous period of 12 months. Further, the said documents will prove that the Petitioner and other workmen were engaged only for seasonal work and therefore, the Petitioner is not entitled to any benefits under Labour Laws. It is the further contention of the Respondent/Management that the Petitioner and other workmen were employed then and there to meet temporary needs at a particular point of time for a particular purpose which would arise then and there are not for a continuous period for maintaining gardens of various children parks and regimental garden. The II Party/Management is doing statutory duties, hence the Tribunal has no jurisdiction and only Central Administrative Tribunal has got jurisdiction to decide any order passed by any department with regard to service cases. Further, it is the contention of the Respondent that there is no question of permanent post namely gardener and there is no question of fixation of pay scale when the I Party has worked temporarily to meet the particular demand at a particular point of time. Therefore, the Petitioner is not entitled to claim any relief as prayed for.

10. In this case, to substantiate their claim, the Petitioner has examined himself as WW1 and marked the appointment order dated 20-4-2003 issued to Petitioner as Ex. W1 and extract of payment particulars as Ex. W2 series. On the other hand, the Respondent on their side examined one Major Virendra Pant as MW1 and Major Seethappa as MW2 and produced three documents namely alleged copy of arbitration award as Ex. M1. Certificate of appendix 'C' signed by Petitioner and other workmen agreeing for conciliation as Ex. M2 and the copy of failure of conciliation report submitted by conciliating authority as Ex. M3.

11. Now we will consider the contentions of Respondent—

'Whether this Tribunal has jurisdiction to enquire into the matter or not?' Though the Respondent has raised this plea in their Counter Statement, no argument or evidence is adduced on behalf of the

Respondent with regard to this contention. Even otherwise, the Respondent has not produced any exemption from the Labour Laws. The representative of the Petitioner argued that the Supreme Court in several cases has held that sovereign functions strictly understood (alone) qualify for exemption not the economic adventures undertaken by the Govt. or even in departments with sovereign functions if there are units which are industries and they are substantially severable, they can be considered to come within section 2(j) of the I.D. Act. He further contended that the Respondent/Management is running Food Processing Training Centres (Bakery), non-canteen stores department, printing press and also cinema hall and maintaining gardens and for all these institutions they have employed more than 21 private civilian non-Govt. servants and they were paid wages out of regimental funds and not from the consolidated funds and therefore, the non-academic, non-sovereign employees of educational training institutions are covered by the definition of workman under section 2(s) of the I.D. Act and they will be treated as workman of industry and therefore, the contention of the learned counsel for the Respondent is not valid in law. I find much force in the contention of the learned representative of the Petitioner.

12. The next contention of the learned counsel for the Respondent is that the Petitioner was appointed only a seasonal casual labour i.e. to maintain the garden and they have not employed the Petitioner continuously, but the Respondent has not produced any document to show that the Petitioner was engaged only for seasonal work. On the other hand, even in the alleged arbitration award, it is stated that the Petitioner and other workmen were engaged by the Respondent/Management for a long period. Furthermore, from the documents produced by the Petitioner namely Ex. W2 series, it is clear that they have worked for all the days in a month as gardener and they have received consolidated salary paid by the Respondent. Under such circumstances, I am not inclined to believe the contention of the Respondent that the Petitioner was engaged as a seasonal temporary/Casual Labour for maintaining the garden of the Respondent/Management.

13. Then, again the learned counsel for the Respondent contended that the Petitioner and other workmen have agreed for a private arbitration and in that arbitration one Lt. Col. C. Benny was appointed as Sole Arbitrator and after mediation, an award was passed and the Petitioner and other workmen have agreed to the terms of award. Under such circumstances, they cannot now contend against the award and they are estopped from disputing the same because they have not questioned the award passed by the Sole Arbitrator. Under such circumstances, since the Petitioner and other workmen were reappointed as gardeners and they having agreed to the terms and conditions of the appointment order, now this claim is not maintainable before this Tribunal.

14. But, the representative of the Petitioner has contended that the Respondent/Management dismissed the Petitioner and other workmen arbitrarily from service with a malafide intention and this is a colourable exercise of power, arbitrary, unfair and unjust and therefore, they cannot now contend that the Petitioner and other workmen agreed for the private arbitration and they have signed in the award of Sole Arbitrator. It is his further contention that even though the Respondent contended that the Petitioner and other workmen had accepted for the private arbitration, there is no agreement for appointment of private arbitrator, on the other hand, even under the notice dated 22-3-2003, Lt. Col. Paul George has stated that Commandant has nominated the Sole Arbitrator. It is not stated that as per agreement, the Arbitrator has been nominated. Under such circumstances, it cannot be said that there was an arbitration and it was accepted by the Petitioner and other workmen. With regard to the signature in the copy of the appointment order, it is only a token of receipt of it. Though the Respondent produced copy of the award with Appendix 'C', the Appendix 'C' produced along with alleged arbitration award namely Ex. M1 is not the real Appendix 'C' because even in the report of the alleged Sole Arbitrator in para 8 he has mentioned that letters dated 20-3-2003 and 22-3-2003 are enclosed as Appendix 'B' and 'C' respectively. But, now in the arbitration award, there is no Appendix 'B' but Appendix 'C' as enclosed relates to mere acknowledgement of receipt of order. Therefore, it cannot be said that arbitration award was accepted by the Petitioner and other workmen. The said letter was obtained by undue influence of the Respondent/Management because at no point of time, the Petitioner and other workmen accepted for sole arbitration after the failure of conciliation before the Labour authorities. It is his further contention that the Arbitration Award is not consonance with the Industrial Laws. It was not passed as per Section 10A of I.D. Act nor under any law. There is no representative for the workmen side who has associated with the alleged arbitration proceedings and in the absence of which the alleged arbitration is bad in law and it is not sustainable. Further, the settlement alleged to have been reached between the parties that there shall be no arrears of back wages is unlawful and opposed to public policy and the Petitioner and other workmen never accepted the contention that back wages need not be paid for the period which the Respondent has unlawfully disengaged the Petitioner and other workmen. Further, it is not established before this Court that this letter Ex. M2 was given by the Petitioner after knowing the contents of the said letter. It is his further argument that giving repeated appointment to workman for short duration was to deprive them the rights under section 25F of the I.D. Act which is unfair. In this case, the Respondent/Management has want only to deprive the rights of the Petitioner and other workmen had disengaged the workmen and subsequently in view of the judgement in Writ Petition filed by the Food Processing Training Centre workmen in High Court, the Respondent/Management again reinstated the Petitioner and other workmen but without any back wages which is unlawful and not sustainable in law.

15. I find some force in the contention of the Representative for the Petitioner. Further, in the W.P. No. 17457/99 one Mr. P. Ramakrishnan and Mr. V.K. Mohandas who are working in Food Processing Training Centre have filed Writ Petition when they were disengaged by the same Respondent/Management. In that Writ Petition also the Respondent had contended that they were engaged only as seasonal workers. But, the High Court had rejected the contention of the Respondent/Management and directed the Respondent/Management to regularise the services of the said persons. Now the Respondent contended that there is separate funds for running Food Processing Training Centre and it was not run from the Regimental funds and therefore, the Petitioner cannot compare the appointment of S/Sri Ramakrishnan & Mohandas for their work.

16. But, here again, I find there is no point in the contention of the learned counsel for the Respondent because, I find from the judgement of High Court that the Respondent has taken the stand that the Food Processing Training Centre is running from the Regimental funds and therefore, I find the Respondent has taken a different stand in different forums. Further, when the Petitioner has filed a petition for production of documents which are in the custody of the Respondent, the Respondent/Management has contended that there was no such document in their custody and they were not maintaining any records with regard to the Petitioner and other workmen. When the Petitioner has produced Ex. W2, it is clear that the Respondent has got registers to show that the Petitioner's engagement as a gardener, the appointment and wages for the said persons. Under such circumstances, The respondent has want only taken the stand that the Petitioners are temporary casual labourers and they are seasonal workers worked in gardens. I find there is no truth in the contention of the Respondent that the Petitioners were working only as seasonal casual labourers.

17. Then, again the learned counsel for the Respondent contended that burden of proving the fact that the Petitioners are working continuously for more than 240 days in a continuous period of 12 calendar months is upon them, but in this case, they have not produced any substantial evidence to prove that they are in continuous employment under the Respondent for more than 240 days in a period of 12 calendar months and therefore they are not entitled to any relief. It is his further contention that since the Petitioners are reinstated in service, there need not be any relief asked by them, when they have agreed for the arbitration award and therefore, the claim of the Petitioner is to be rejected by this Tribunal.

18. But, I find there is no point in the contention of the learned counsel for the Respondent because it is clear that the Petitioner and other workmen were working for more than 240 days in a continuous period of 12 calendar months and the documents produced by the Petitioner clearly prove the circumstances that the Respondent wantonly suppressed before this Tribunal to produce the documents required by the Petitioner. Under such

circumstances, this Court can presume that the Petitioner has worked for more than 240 days in a continuous period of 12 calendar months and therefore, the retrenchment of the Petitioner by the Respondent/Management is not valid under law. Even though they have reinstated in service, they were not paid back wages. The reason given by the Respondent that they have agreed to the conditions of private arbitration award and hence they are estopped from questioning the award is not valid, since there is no proof that the Petitioner had agreed for arbitration and also the Award. Under such circumstances, I find the action of the Respondent/Management in terminating the services of the Petitioner is not justified and therefore, the Petitioner is entitled for back wages for the period from 21-09-2000 to 20-04-2003. With regard to other relief claimed by the Petitioner, I find as the Petitioner and other workmen are not regularised in service, as per Labour Laws, they are entitled for temporary status.

Point No. 2:—

The next point to be decided in this case is to what relief the Petitioner is entitled?

19. In view of my foregoing findings, I find the action of the Respondent/Management in terminating the services of the Petitioner is not justified and therefore, the Petitioner is entitled for back wages from 21-09-2000 to 20-04-2003. Ordered accordingly. No Costs.

20. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 28th October, 2004.

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the Petitioner/ Workman : WW1 Sri C. Murugan

For the II Party/ Management : MW1 Maj. Virendra Pant
MW2 Maj. Seethappa

Documents Marked :—

For the I Party/Workman :—

Ex. No.	Date	Description
W1	20-04-03	Xerox copy of the appointment order issued to Petitioner.
W2 series	Nil	Extract of payment particulars.

For the II Party/Management :—

Ex. No.	Date	Description
M1	Nil	Arbitration Award
M2	10-04-03	Appendix 'C' signed by Petitioner and other workmen As per arbitration proceedings.
M3	27-12-02	Xerox copy of the failure of conciliation report.

नई दिल्ली, 23 फरवरी, 2005

का.आ. 1064.—ऑटोग्राफिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मद्रास रेजीमेन्टल सेन्टर के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑटोग्राफिक विवाद में केन्द्रीय सरकार औटोग्राफिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 91/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-02-2005 को प्राप्त हुआ था।

[सं. एल-14012/7/2003-आई आर (डी यू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 23rd February, 2005

S.O. 1064.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 91/2003) of the Central Government Industrial Tribunal/ Labour Court, Chennai now as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Madras Regimental Centre and their workman, which was received by the Central Government on 23-02-2005.

[No. L-14012/7/2003-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 28th October, 2004.

PRESENT:

K. Jayaraman, Presiding Officer

Industrial Dispute No. 91/2003

(In the matter of the dispute for adjudication under clause (d) of sub-section(1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Madras Regimental Centre and their workmen).

BETWEEN:

Sri D. Radha Krishnan : I Party/Workman

AND

The Commandant, II Party/Management
Madras Regimental
Centre, Wellington,
Nilgiris.

APPEARANCE:

For the Workman : Sri A. Natarajan,
Authorised Representative

For the Management : Sri K.M. Venugopal, ACGSC

AWARD

The Central Government, Ministry of Labour vide Order No. L-14012/7/2003-IR(DU) dated 14-05-2003 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :—

“Whether the action of the Commandant, Madras Regimental Centre, Wellington in terminating the services of Shri D. Radhakrishnan is justified? If not, to what relief he is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 91/2003 and notices were issued to both the parties and both the parties entered appearance through their Authorised Representative and Advocate respectively and filed their Claim Statement and Counter Statement.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner who was employed as gardener under the Respondent/Management on regular basis since 1988 to 21st September, 2000, on which date, his services were terminated by oral orders arbitrarily. The Petitioner was paid consolidated pay of Rs. 1,200/- per month at the time of dismissal. Prior to that date, the Petitioner has represented to the Regional Provident Fund Commissioner, Chennai to effect the statutory and other social security provisions. On coming to know about the said representation, The Respondent/Management called the Petitioner on 20th September, 2000 and compelled him to affix signature on non-judicial blank stamp paper to the value of Rs. 10/- and also in other blank papers for which they have given one day's time. But the Petitioner did not yield to this threat and therefore, the Respondent/Management issued oral instructions of dismissal through NCO garden in charge and arbitrarily dismissed the services of the Petitioner and other six gardeners. The order passed by the Respondent/Management in not following the established procedure, is arbitrary, unjust, unfair, whimsical, unlawful, illegal and unconstitutional. Subsequent to that the Petitioner has raised the dispute before labour authorities and after the failure of conciliation, the matter was referred to this Tribunal. In the meantime, after the failure of conciliation efforts, the Respondent/Management *suo moto* came forward with the offer of appointment order considering the earlier service rendered by the Petitioner and the Petitioner and others have accepted the said appointment on economic reasons without prejudice to the legitimate entitlement. In the appointment order, the Respondent/Management has stated that the arrears would not be paid to the Petitioner from the period of dismissal i.e. from 21-9-2000 to the date of reinstatement dated 20th April, 2003. It is illegal and unenforceable. Hence, the Petitioner prays to set aside the order of dismissal passed by the Respondent/Management as arbitrary, punitive, illegal and against the principles of natural justice and direct the Respondent/Management to pay wages for the period of dismissal from 21st September, 2000 to 20th April, 2003 and also direct the Respondent to grant social security benefits

like provident fund, pension, ESI, D.A. and other consequential relief.

4. As against this, the Respondent in its Counter Statement contended that the Respondent/Management is not an industry under the definition of Industrial Disputes Act. The Respondent/Management is doing its statutory duties under the Constitution of India. Hence, this Tribunal has no jurisdiction in this matter and only Central Administrative Tribunal has got jurisdiction to decide on the order passed by the Respondent/Management with regard to service cases. It is false to allege that the Petitioner has worked from 1988 to 20-9-2000 on regular basis. The II Party/Management employed then and there some employees to meet temporary needs at a particular point of time for particular purpose which would arise then and there and not for a continuous period to maintain gardening of various children parks and regimental gardens in the II Party/Management and it was maintained as a welfare measure for the families of troops. There is no permanent post called as gardener in the II Party/Management and hence, there is no question of fixation of pay scale for the Petitioner. The work of the gardener is not long term work and hence, there is no confirmation order passed to any of the persons involved to the above work. It is false to allege that the management has called on the Petitioner on 20-9-2000 and compelled and coerced him to affix signature on the couple of blank papers giving one day's time. There is no relationship of master and servant between the I and II Party. Wages of the temporary servants would be paid from subscription amount given by staff of army to the II Party/Management monthly towards the better welfare of battalions and they were employed totally on a casual basis. The Madras Regimental Centre cannot employ any civilian out of Govt. grants. Hence, the claim of the Petitioner cannot be sustained and the arbitration was made between the I and II Party on the factual position that wages were paid to I Party out of pockets of officials of army and they should not be heavily taxed in the guise of heavy payment of benefits from money contributed by officials of army to Regimental Private Fund. Pursuant to arbitration award, the II Party/Management issued orders of appointment to the Petitioner subject to certain conditions and they have accepted the arbitration award. Therefore, wages from the date of dismissal from 21-9-2000 to till the date of reinstatement namely 20-4-2003 would not arise at all and provisions of Section 2(s) of Industrial Disputes Act would not apply to the case of the Petitioner. The Petitioner had not questioned nor challenged the arbitration award passed and having signed the appointment order after agreed to all the terms and conditions, now the Petitioner cannot question the arbitration award. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. Again the Petitioner in his rejoinder contended that this Tribunal has got jurisdiction to entertain and to decide the industrial dispute and the contention of the Respondent/Management is unsustainable and not valid. Giving repeated appointments to workmen for short duration to deprive their rights under section 25F of I.D.

Act is unfair. There are different establishments and sub-establishments under the II Party/Management and there is functioning unity of ownership, supervision, finance and management and labour between the establishments and therefore, they should be treated as one establishment. The Petitioner and other gardeners worked for more than 240 days in a continuous period of 12 months and therefore, they are entitled to the benefits of I.D. Act. The alleged award is not an award within the meaning of Section 2(b) of the Act or under Section 10A of the I.D. Act. When there is no arbitration or an award was reached between the parties, the question of challenging it does not arise. Signing the copy of the appointment order is only a token of receipt of it. Hence, for all these reasons, there is nothing to do with the arbitration award now claimed by the II Party/Management. Therefore, he prays that an award may be passed in his favour.

6. In such circumstances, the points for my determination are :—

- (i) "Whether the action of the Commandant of Respondent/Management in terminating the services of the Petitioner is justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point No. 1 :—

7. Though in this case, the termination of the services of the Petitioner was questioned, after the failure of conciliation report by conciliating authority, the Respondent/Management has reinstated the Petitioner in service on 20-4-2003 and therefore, the question of termination at this stage will not loom large. Therefore, we are mainly concerned in this case with regard to wages between the period from 21-9-2000 to 20-4-2003.

8. On behalf of the Petitioner, it is contended that though the Petitioner has been taken back by the Respondent/Management into service, back wages on reinstatement has to be paid by the Respondent/Management. The denial of back wages is unjustified, especially when the Petitioner has been arbitrarily dismissed from service in flagrant violation of natural justice. It is also contended on behalf of the Petitioner that even in the Respondent/Management document Ex. M2 namely the alleged Award passed between the Respondent/Management and the workmen in Appendix 'A', the date of appointment of Petitioner is mentioned as October, 1989. Further, it is also mentioned in the alleged award that the Petitioner and other workmen were appointed long back and they are still in service till 20-9-2000 and therefore, it can be presumed from the circumstances that the Petitioner has been working as a gardener in the Respondent/Management for more than 240 days in a continuous period of 12 calendar months and therefore, he is entitled to the benefits as per the provisions of Labour laws. Though the Respondent/Management has contended that they have no records to show their appointment, their wages and other relevant records, the Petitioner has produced Ex. W2 which is salary disbursement details for the month of October, 1998, December, 1998 and May, 1999, November, 1999.

March, 2000 and April, 2000. From the said records, it is clear that the Petitioner and other workmen were working for all the days in the month and a consolidated pay of Rs. 1000 to Rs. 1300 was paid to the workmen. Further, from the records produced by the Petitioner, it is clear that the Respondent has want only withheld some of the documents which will clearly prove that the Petitioners are entitled to the provisions of Labour Laws. Under such circumstances, the Petitioner is entitled to the claim made by him.

9. But, as against this, on behalf of the Respondent it is contended that the burden of proving the fact that the Petitioner and other workmen are working under the Respondent/Management for more than 240 days in a continuous period of 12 calendar months is upon the Petitioner and the stray documents which the Petitioner produced before this Tribunal will not in any way prove that they are working for more than 240 days in a continuous period of 12 months. Further, the said documents will prove that the Petitioner and other workmen were engaged only for seasonal work and therefore, the Petitioner is not entitled to any benefits under Labour Laws. It is the further contention of the Respondent/Management that the Petitioner and other workmen were employed then and there to meet temporary needs at a particular point of time for a particular purpose which would arise then and there are not for a continuous period for maintaining gardens of various children parks and regimental garden. The II Party/Management is doing statutory duties, hence the Tribunal has no jurisdiction and only Central Administrative Tribunal has got jurisdiction to decide any order passed by any department with regard to service cases. Further, it is the contention of the Respondent that there is no question of permanent post namely gardener and there is no question of fixation of pay scale when the I Party has worked temporarily to meet the particular demand at a particular point of time. Therefore, the Petitioner is not entitled to claim any relief as prayed for.

10. In this case, to substantiate their claim, the Petitioner has examined himself as WW1 and marked the appointment order dated 20-4-2003 issued to Petitioner as Ex. W1 and extract of payment particulars as Ex. W2 series. On the other hand, the Respondent on their side examined one Major Virendra Pant as MW1 and Major Seethappa as MW2 and produced three documents namely alleged copy of arbitration award as Ex. M1, Certificate of appendix 'C' signed by Petitioner and other workmen agreeing for conciliation as Ex. M2 and the copy of failure of conciliation report submitted by conciliating authority as Ex. M3.

11. Now we will consider the contentions of Respondent—

"Whether this Tribunal has jurisdiction to enquire into the matter or not?" Though the Respondent has raised this plea in their Counter Statement, no argument or evidence is adduced on behalf of the Respondent with regard to this contention. Even otherwise, the Respondent has not produced any exemption from the Labour Laws. The representative

of the Petitioner argued that the Supreme Court in several cases has held that sovereign functions strictly understood (alone) qualify for exemption not the economic adventures undertaken by the Govt. or even in departments with sovereign functions if there are units which are industries and they are substantially severable, they can be considered to come within Section 2(j) of the I.D. Act. he further contended that the Respondent/Management is running Food Processing Training Centres (Bakery), non-canteen stores department, printing press and also cinema hall and maintaining gardens and for all these institutions they have employed more than 21 private civilian non-Govt. servants and they were paid wages out of regimental funds and not from the consolidated funds and therefore, the non-academic, non-sovereign employees of educational training institutions are covered by the definition of workman under Section 2(s) of the I.D. Act and they will be treated as workman of industry and therefore, the contention of the learned counsel for the Respondent is not valid in law. I find much force in the contention of the learned representative of the Petitioner.

12. The next contention of the learned counsel for the Respondent is that the Petitioner was appointed only a seasonal casual labour i.e. to maintain the garden and they have not employed the Petitioner continuously, but the Respondent has not produced any document to show that the Petitioner was engaged only for seasonal work. On the other hand, even in the alleged arbitration award, it is stated that the Petitioner and other workmen were engaged by the Respondent/Management for a long period. Furthermore, from the documents produced by the Petitioner namely Ex. W2, series, it is clear that they have worked for all the days in a month as gardener and they have received consolidated salary paid by the Respondent. Under such circumstances, I am not inclined to believe the contention of the Respondent that the Petitioner was engaged as a seasonal temporary/Casual Labour for maintaining the garden of the Respondent/Management.

13. Then, again the learned counsel for the Respondent contended that the Petitioner and other workmen have agreed for a private arbitration and in that arbitration one Lt. Col. C. Benny was appointed as Sole Arbitrator and after mediation, an award was passed and the Petitioner and other workmen have agreed to the terms of award. Under such circumstances, they cannot now contend against the award and they are estopped from disputing the same because they have not questioned the award passed by the Sole Arbitrator. Under such circumstances, since the Petitioner and other workmen were reappointed as gardeners and they having agreed to the terms and conditions of the appointment order, now this claim is not maintainable before this Tribunal.

14. But, the representative of the Petitioner has contended that the Respondent/Management dismissed the Petitioner and other workmen arbitrarily from service with a malafide intention and this is a colourable exercise

of power, arbitrary, unfair and unjust and therefore, they cannot now contend that the Petitioner and other workmen agreed for the private arbitration and they have signed in the award of Sole Arbitrator. It is his further contention that even though the Respondent contended that the Petitioner and other workmen had accepted for the private arbitration, there is no agreement for appointment of private arbitrator, on the other hand, even under the notice dated 22-3-2003, Lt. Col. Paul George has stated that Commandant has nominated the Sole Arbitrator. It is not stated that as per agreement, the Arbitrator has been nominated. Under such circumstances, it cannot be said that there was an arbitration and it was accepted by the Petitioner and other workmen. With regard to the signature in the copy of the appointment order, it is only a token of receipt of it. Though the Respondent produced copy of the award with Appendix 'C', the appendix 'C' produced along with alleged arbitration award namely Ex. M1 is not the real Appendix 'C' because even in the report of the alleged Sole Arbitrator in para 8 he has mentioned that letters dated 20-3-2003 and 22-3-2003 are enclosed as Appendix 'B' and 'C' respectively. But, now in the arbitration award, there is no Appendix 'B' but Appendix 'C' as enclosed relates to mere acknowledgement of receipt of order. Therefore, it cannot be said that arbitration award was accepted by the Petitioner and other workmen. The said letter was obtained by undue influence of the Respondent/Management because at no point of time, the Petitioner and other workmen accepted for sole arbitration after the failure of conciliation before the Labour authorities. It is his further contention that the Arbitration Award is not consonance with the Industrial Laws. It was not passed as per Section 10A of I.D. Act nor under any law. There is no representative for the workmen side who has associated with the alleged arbitration proceedings and in the absence of which the alleged arbitration is bad in law and it is not sustainable. Further, the settlement alleged to have been reached between the parties that there shall be no arrears of back wages is unlawful and opposed to public policy and the Petitioner and other workmen never accepted the contention that back wages need not be paid for the period which the Respondent has unlawfully disengaged the Petitioner and other workmen. Further, it is not established before this Court that this letter Ex. M2 was given by the Petitioner after knowing the contents of the said letter. It is his further argument that giving repeated appointment to workman for short duration was to deprive them the rights under Section 25F of the I.D. Act which is unfair. In this case, the Respondent/Management has want only to deprive the rights of the Petitioner and other workmen had disengaged the workmen and subsequently in view of the judgement in Writ Petition filed by the Food Processing Training Centre workmen in High Court, the Respondent/Management again reinstated the Petitioner and other workmen but without any back wages which is unlawful and not sustainable in law.

15. I find some force in the contention of the Representative for the Petitioner. Further, in the W.P. No. 17457/99 one Mr. P. Ramakrishnan and Mr. V.K. Mohandas

who are working in Food Processing Training Centre have filed Writ Petition when they were disengaged by the same Respondent/Management. In that Writ Petition also the Respondent had contended that they were engaged only as seasonal workers. But, the High Court had rejected the contention of the Respondent/Management and directed the Respondent/Management to regularise the services of the said persons. Now, the Respondent contended that there is separate funds for running Food Processing Training Centre and it was not run from the Regimental funds and therefore, the Petitioner cannot compare the appointment of S/Sri Ramakrishnan & Mohandas for their work.

16. But, here again, I find that is no point in the contention of the learned counsel for the Respondent because, I find from the judgement of High Court that the Respondent has taken the stand that the Food Processing Training Centre is running from the Regimental funds and therefore, I find the Respondent has taken a different stand in different forums. Further, when the Petitioner has filed a petition for production of documents which are in the custody of the Respondent, the Respondent/Management has contended that there was no such document in their custody and they were not maintaining any records with regard to the Petition and other workmen. When the Petitioner has produced Ex. W2, it is clear that the Respondent has got registers to show that the Petitioner's engagement as a gardener, the appointment and wages for the said persons. Under such circumstances, The respondent has want only taken the stand that the Petitioners are temporary casual labourers and they are seasonal workers worked in gardens. I find there is no truth in the contention of the Respondent that the Petitioners were working only as seasonal casual labourers.

17. Then, again the learned counsel for the Respondent contended that burden of proving the fact that the Petitioners are working continuously for more than 240 days in a continuous period of 12 calendar months is upon them, but in this case, they have not produced any substantial evidence to prove that they are in continuous employment under the Respondent for more than 240 days in a period of 12 calendar months and therefore they are not entitled any relief. It is his further contention that since the Petitioners are reinstated in service, there need not be any relief asked by them, when they have agreed for the arbitration award and therefore the claim of the Petitioner is to be rejected by this Tribunal.

18. But, I find there is no point in the contention of the learned counsel for the Respondent because it is clear that the Petitioner and other workmen were working for more than 240 days in a continuous period of 12 calendar months and the documents produced by the Petitioner clearly prove the circumstances that the Respondent want only suppressed before this Tribunal to produce the documents required by the Petitioner. Under such circumstances, this Court can presume that the Petitioner has worked for more than 240 days in a continuous period

of 12 calendar months and therefore, the retrenchment of the Petitioner by the Respondent/Management is not valid under law. Even though they have reinstated in service, they were not paid back wages. The reason given by the Respondent that they have agreed to the conditions to private arbitration award and hence they are estopped from questioning the award is not valid, since there is no proof that the Petitioner had agreed for arbitration and also the Award. Under such circumstances, I find the action of the Respondent/Management in terminating the services of the Petitioner is not justified and therefore, the Petitioner is entitled for back wages for the period from 21-09-2000 to 20-04-2003. With regard to other relief claimed by the Petitioner, I find as the Petitioner and other workmen are not regularised in service, as per Labour Laws, they are entitled for temporary status.

Point No. 2:—

The next point to be decided in this case is to what relief the Petitioner is entitled?

19. In view of my foregoing findings, I find the action of the Respondent/Management in terminating the services of the Petitioner is not justified and therefore, the Petitioner is entitled for back wages from 21-09-2000 to 20-04-2003. Ordered accordingly. No Costs.

20. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 28th October, 2004.

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the Petitioner/ Workman : WW1 Sri D. Radhakrishnan

For the II Party/ Management : MW1 Maj. Virendra Pant
MW2 Maj. Seethappa

Documents Marked :—

For the I Party/Workman :—

Ex. No.	Date	Description
W1	20-04-03	Xerox copy of the appointment order issued to Petitioner
W2	N.I.	Extract of payment particulars series

For the II Party/Management :—

Ex. No.	Date	Description
M1	N.I.	Arbitration Award
M2	10-04-03	Appendix 'C' signed by Petitioner and other workmen As per arbitration proceedings.
M3	01-01-03	Xerox copy of the failure of conciliation report.

ब्रैड ब्रिस्टली, 23 फरवरी, 2005

क्रा.आ. 1065.—औद्योगिक विवाद अधिकारी, 1947 (1947 का 14) की आरा 17 के अनुसरण में, केन्द्रीय सरकार, मद्रास रेजीमेन्टल सेन्टर के प्रबंधनतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारी/अम न्यायालय, चेन्नई के पंचाद (संदर्भ संख्या 104/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-2-2005 को प्राप्त हुआ था।

[सं. एल-14012/8/2003-आई आर (डैस्यु)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 23rd February, 2005

S.O. 1065.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 104/2003) of the Central Government Industrial Tribunal/ Labour Court, Chennai now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Madras Regimental Centre and their workmen, which was received by the Central Government on 23-02-2005.

[No. L-14012/8/2003-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 28th October, 2004

PRESENT:

K. JAYARAMAN, Presiding Officer
Industrial Dispute No. 104/2003

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Madras Regimental Centre and their workmen)

BETWEEN:

Sri S. Sudhagar I Party/Workman

AND

The Commandant, II Party/Management
Madras Regimental Centre,
Wellington, Nilgiris.

APPEARANCE:

For the Workman : Sri A. Natarajan,
Authorised
Representative

For the Management : Sri K.M. Venugopal,
ACGSC

AWARD

The Central Government, Ministry of Labour vide Order No. L-14012/8/2003/IR (DU) dated 14-05-2003 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows:—

“Whether the action of the Commandant, Madras Regimental Centre, Wellington in terminating the services of Shri S. Sudhagar is justified? If not, to what relief he is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 104/2003 and notices were issued to both the parties and both the parties entered appearance through their Authorised Representative and Advocate respectively and filed their Claim Statement and Counter Statement.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:—

The Petitioner who was employed as gardener under the Respondent/Management on regular basis since April, 1998 to 21st September, 2000, on which date, his services were terminated by oral orders arbitrarily. The Petitioner was paid consolidated pay of Rs. 1,000/- per month at the time of dismissal. Prior to that date, the Petitioner has represented to the Regional Provident Fund Commissioner, Chennai to effect the statutory and other social security provisions. On coming to know about the said representation, the Respondent/Management called the Petitioner on 20th September, 2000 and compelled him to affix signature on non-judicial blank stamp paper to the value of Rs. 10/- and also in other blank papers for which they have given one day's time. But, the Petitioner did not yield to this threat and therefore, the Respondent/Management issued oral instructions of dismissal through NCO garden in charge and arbitrarily dismissed the services of the Petitioner and other six gardeners. The order passed by the Respondent/Management in not following the established procedure, is arbitrary, unjust, unfair, whimsical, unlawful, illegal and unconstitutional. Subsequent to that the Petitioner has raised the dispute before labour authorities and after the failure of conciliation, the matter was referred to this Tribunal. In the meantime, after the failure of conciliation efforts, the Respondent/Management suo moto came forward with the offer of appointment order considering the earlier service rendered by the Petitioner and the Petitioner and others have accepted the said appointment on economic reasons without prejudice to the legitimate entitlement. In the appointment order, the Respondent/Management has stated that the arrears would not be paid to the Petitioner from the period of dismissal i.e. from 21-9-2000 to the date of reinstatement dated 20th April, 2003. It is illegal and unenforceable. Hence, the Petitioner prays to set aside the order of dismissal passed by the Respondent/Management as arbitrary, punitive, illegal and against the principles of natural justice and direct the Respondent management to pay wages for the period of dismissal from 21st September, 2000 to 20th April, 2003 and also direct the Respondent to grant social security benefits like provident fund, pension, ESI, D.A. and other consequential relief.”

4. As against this, the Respondent in its Counter Statement contended that the Respondent/Management is not an industry under the definition of Industrial Disputes Act. The Respondent/Management is doing its statutory duties under the Constitution of India. Hence, this Tribunal has no jurisdiction in this matter and only Central Administrative Tribunal has got jurisdiction to decide on the order passed by the Respondent/Management with regard to service cases. It is false to allege that the Petitioner has worked from April, 1998 to 20-9-2000 on regular basis. The II Party/Management employed then and there some employees to meet temporary needs at a particular point of time for particular purpose which would arise then and there and not for a continuous period to maintain gardening of various children parks and regimental gardens in the II Party/Management and it was maintained as a welfare measure for the families of troops. There is no permanent post called as gardener in the II Party/Management and hence, there is not question of fixation of pay scale for the Petitioner. The work of the gardener is not long term work and hence, there is no confirmation order passed to any of the persons involved to the above work. It is false to allege that the management has called on the Petitioner on 20-9-2000 and compelled and coerced him to affix signature on the couple of blank papers giving one day's time. There is no relationship of master and servant between the I and II Party. Wages of the temporary servants would be paid from subscription amount given by staff of army to the II Party/Management monthly towards the better welfare of battalions and they were employed totally on a casual basis. The Madras Regimental Centre cannot employ any civilian out of Govt. grants. Hence, the claim of the Petitioner cannot be sustained and the arbitration was made between the I and II Party on the factual position that wages were paid to I Party out of pockets of officials of army and they should not be heavily taxed in the guise of heavy payment of benefits from money contributed by officials of army to Regimental Private Fund. Pursuant to arbitration award, the II Party/Management issued orders of appointment to the Petitioner subject to certain conditions and they have accepted the arbitration award. Therefore, wages from the date of dismissal from 21-9-2000 to till the date of reinstatement namely 20-4-2003 would not arise at all and provisions of Section 2(s) of Industrial Disputes Act would not apply to the case of the Petitioner. The Petitioner had not questioned nor challenged the arbitration award, passed and having signed the appointment order after agreed to all the terms and conditions, now the Petitioner cannot question the arbitration award. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. Again the Petitioner in his rejoinder contended that this Tribunal has got jurisdiction to entertain and to decide the industrial dispute and the contention of the Respondent/Management is unsustainable and not valid. Giving repeated appointments to workmen for short duration to deprive their rights under Section 25F of I.D. Act is unfair. There are different establishments and sub-

establishments under the II Party/Management and there is functioning unity of ownership, supervision, finance and management and labour between the establishments and therefore, they should be treated as one establishment. The Petitioner and other gardeners worked for more than 240 days in a continuous period of 12 months and therefore, they are entitled to the benefits of I.D. Act. The alleged award is not an award within the meaning of Section 2(b) of the Act or under section 10A of the I.D. Act. When there is no arbitration or an award was reached between the parties, the question of challenging it does not arise. Signing the copy of the appointment order is only a token of receipt of it. Hence, for all these reasons, there is nothing to do with the arbitration award now claimed by the II Party/Management. Therefore, he prays that an award may be passed in his favour.

6. In such circumstances, the points for my determination are :—

- (i) "Whether the action of the Commandant of Respondent/Management in terminating the services of the Petitioner is justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point No. 1 :—

7. Though in this case, the termination of the services of the Petitioner was questioned, after the failure of conciliation report by conciliating authority, the Respondent/Management has reinstated the Petitioner in service on 20-4-2003 and therefore, the question of termination at this stage will not loom large. Therefore, we are mainly concerned in this case with regard to wages between the period from 21-9-2000 to 20-4-2003.

8. On behalf of the Petitioner, it is contended that though the Petitioner has been taken back by the Respondent/Management into service, back wages on reinstatement has to be paid by the Respondent/Management. The denial of back wages is unjustified, especially when the Petitioner has been arbitrarily dismissed from service in flagrant violation of natural justice. It is also contended on behalf of the Petitioner that even in the Respondent/Management document Ex. M2 namely the alleged Award passed between the Respondent/Management and the workmen in Appendix 'A', the date of appointment of Petitioner is mentioned as March, 1998. Further, it is also mentioned in the alleged award that the Petitioner and other workmen were appointed long back and they are still in service till 20-9-2000 and therefore, it can be presumed from the circumstances that the Petitioner has been working as a gardener in the Respondent/Management for more than 240 days in a continuous period of 12 calendar months and therefore, he is entitled to the benefits as per the provisions of Labour laws. Though the Respondent/Management has contended that they have no records to show their appointment, their wages and other relevant records, the Petitioner has produced Ex. W2 which is salary disbursement details for the month of October, 1998, December, 1998 and May, 1999, November, 1999, March, 2000 and April, 2000. From the said records, it is

clear that the Petitioner and other workmen were working for all the days in the month and a consolidated pay of Rs. 1000/- to Rs. 1300/- was paid to the workmen. Further, from the records produced by the Petitioner, it is clear that the Respondent has wantonly withheld some of the documents which will clearly prove that the Petitioners are entitled to the provisions of Labour Laws. Under such circumstances, the Petitioner is entitled to the claim made by him.

9. But, as against this, on behalf of the Respondent it is contended that the burden of proving the fact that the Petitioner and other workmen are working under the Respondent/Management for more than 240 days in a continuous period of 12 calendar months is upon the Petitioner and the stray documents which the Petitioner produced before this Tribunal will not in any way prove that they are working for more than 240 days in a continuous period of 12 months. Further, the said documents will prove that the Petitioner and other workmen were engaged only for seasonal work and therefore, the Petitioner is not entitled to any benefits under Labour Laws. It is the further contention of the Respondent/Management that the Petitioner and other workmen were employed then and there to meet temporary needs at a particular point of time for a particular purpose which would arise then and there and not for a continuous period for maintaining gardens of various children parks and regimental garden. The II Party/Management is doing statutory duties, hence the Tribunal has no jurisdiction and only Central Administrative Tribunal has got jurisdiction to decide any order passed by any department with regard to service cases. Further, it is the contention of the Respondent that there is no question of permanent post namely gardener and there is no question of fixation of pay scale when the I Party has worked temporarily to meet the particular demand at a particular point of time. Therefore, the Petitioner is not entitled to claim any relief as prayed for.

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11. Now we will consider the contentions of Respondent—

'Whether this Tribunal has jurisdiction to enquire into the matter or not?'—Though the Respondent has raised this plea in their Counter Statement, no argument or evidence is adduced on behalf of the Respondent with regard to this contention. Even otherwise, the Respondent has not produced any exemption from the Labour Laws. The representative of the Petitioner argued that the Supreme Court in

several cases has held that sovereign functions strictly understood (alone) quality for exemption not the economic adventures undertaken by the Govt. or even in departments with sovereign functions if there are units which are industries and they are substantially severable, they can be considered to come within Section 2(j) of the I.D. Act. He further contended that the Respondent/Management is running Food Processing Training Centres (Bakery), non-canteen stores department, printing press and also cinema hall and maintaining gardens and for all these institutions they have employed more than 21 private civilian non-Govt. servants and they were paid wages out of regimental funds and not from the consolidated funds and therefore, the non-academic, non-sovereign employees of educational training institutions are covered by the definition of workman under Section 2(s) of the I.D. Act and they will be treated as workman of industry and therefore, the contention of the learned counsel for the Respondent is not valid in law. I find much force in the contention of the learned representative of the Petitioner.

12. The next contention of the learned counsel for the Respondent is that the Petitioner was appointed only a seasonal casual labour *i.e.* to maintain the garden and they have not employed the Petitioner continuously, but the Respondent has not produced any document to show that the Petitioner was engaged only for seasonal work. On the other hand, even in the alleged arbitration award, it is stated that the Petitioner and other workmen were engaged by the Respondent/Management for a long period. Furthermore, from the documents produced by the Petitioner namely Ex. W2 series, it is clear that they have worked for all the days in a month as gardener and they have received consolidated salary paid by the Respondent. Under such circumstances, I am not inclined to believe the contention of the Respondent that the Petitioner was engaged as a seasonal temporary/Casual Labour for maintaining the garden of the Respondent/Management.

13. Then, again the learned counsel for the Respondent contended that the Petitioner and other workmen have agreed for a private arbitration and in that arbitration one Lt. Col. C. Benny was appointed as Sole Arbitrator and after mediation, an award was passed and the Petitioner and other workmen have agreed to the terms of award. Under such circumstances, they cannot now contend against the award and they are estopped from disputing the same because they have not questioned the award passed by the Sole Arbitrator. Under such circumstances, since the Petitioner and other workmen were reappointed as gardeners and they having agreed to the terms and conditions of the appointment order, now this claim is not maintainable before this Tribunal.

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agreed for the private arbitration and they have signed in the award of Sole Arbitrator. It is his further contention that even though the Respondent contended that the Petitioner and other workmen had accepted for the private arbitration, there is no agreement for appointment of private arbitrator, on the other hand, even under the notice dated 22-3-2003, Lt. Col. Paul George has stated that Commandant has nominated the Sole Arbitrator. It is not stated that as per agreement, the Arbitrator has been nominated. Under such circumstances, it cannot be said that there was an arbitration and it was accepted by the Petitioner and other workmen. With regard to the signature in the copy of the appointment order, it is only a token of receipt of it. Though the Respondent produced copy of the award with Appendix 'C', the appendix 'C' produced along with alleged arbitration award namely Ex. M1 is not the real Appendix 'C' because even in the report of the alleged Sole Arbitrator in para 8 he has mentioned that letters dated 20-3-2003 and 22-3-2003 are enclosed as Appendix 'B' and 'C' respectively. But, now in the arbitration award, there is no Appendix 'B' but Appendix 'C' as enclosed relates to mere acknowledgement of receipt of order. Therefore, it cannot be said that arbitration award was accepted by the Petitioner and other workmen. The said letter was obtained by undue influence of the Respondent/Management because at no point of time, the Petitioner and other workmen accepted for sole arbitration after the failure of conciliation before the Labour authorities. It is his further contention that the Arbitration Award is not consonance with the Industrial Laws. It was not passed as per Section 10A of I.D. Act nor under any law. There is no representative for the workmen side who has associated with the alleged arbitration proceedings and in the absence of which the alleged arbitration is bad in law and it is not sustainable. Further, the settlement alleged to have been reached between the parties that there shall be no arrears of back wages is unlawful and opposed to public policy and the Petitioner and other workmen never accepted the contention that back wages need not be paid for the period which the Respondent has unlawfully disengaged the Petitioner and other workmen. Further, it is not established before this Court that this letter Ex. M2 was given by the Petitioner after knowing the contents of the said letter. It is his further argument that giving repeated appointment to workman for short duration was to deprive them the rights under Section 25F of the I.D. Act which is unfair. In this case, the Respondent/Management has wantonly to deprive the rights of the Petitioner and other workmen had disengaged the workmen and subsequently in view of the judgement in Writ Petition filed by the Food Processing Training Centre workmen in High Court, the Respondent/Management again reinstated the Petitioner and other workmen but without any back wages which is unlawful and not sustainable in law.

15. I find some force in the contention of the Representative for the Petitioner. Further, in the W.P. No. 17457/99 one Mr. P. Ramakrishnan and Mr. V.K. Mohandas who are working in Food Processing Training Centre have filed Writ Petition when they were disengaged by the same Respondent/Management. In that Writ Petition also

the Respondent had contended that they were engaged only as seasonal workers. But, the High Court had rejected the contention of the Respondent/Management and directed the Respondent/Management to regularise the services of the said persons. Now the Respondent contended that there is separate funds for running Food Processing Training Centre and it was not run from the Regimental funds and therefore, the Petitioner cannot compare the appointment of S/Sri Ramakrishnan & Mohandas for their work.

16. But, here again, I find that is no point in the contention of the learned counsel for the Respondent because, I find from the judgement of High Court that the Respondent has taken the stand that the Food Processing Training Centre is running from its own capital funds and therefore, I find the Respondent has taken different stand in different forums. Further, when the Petitioner filed a petition for production of documents which are in the custody of the Respondent, the Respondent/Management has contended that there was no such document in their custody and they were not maintaining any records with regard to the Petition and other workmen. When the Petitioner has produced Ex. W2, it is clear that the Respondent has got registers to show that the Petitioner's engagement as a gardener, the appointment and wages for the said persons. Under such circumstances, the respondent has want only taken the stand that the Petitioners are temporary casual labourers and they are seasonal workers worked in gardens. I find there is no truth in the contention of the Respondent that the Petitioners were working only as seasonal casual labourers.

17. Then, again the learned counsel for the Respondent contended that burden of proving the fact that the Petitioners are working continuously for more than 240 days in a continuous period of 12 calendar months is upon them, but in this case, they have not produced any substantial evidence to prove that they are in continuous employment under the Respondent for more than 240 days in a period of 12 calendar months and therefore they are not entitled any relief. It is his further contention that since the Petitioners are reinstated in service, there need not be any relief asked by them, when they have agreed for the arbitration award and therefore, the claim of the Petitioner is to be rejected by this Tribunal.

18. But, I find there is no point in the contention of the learned counsel for the Respondent because it is clear that the Petitioner and other workmen were working for more than 240 days in a continuous period of 12 calendar months and the documents produced by the Petitioner clearly prove the circumstances that the Respondent wantonly suppressed before this Tribunal to produce the documents required by the Petitioner. Under such circumstances, this Court can presume that the Petitioner has worked for more than 240 days in a continuous period of 12 calendar months and therefore, the retrenchment of the Petitioner by the Respondent/Management is not valid under law. Even though they have reinstated in service, they were not paid back wages. The reason given by the

Respondent that they have agreed to the conditions of private arbitration award and hence they are estopped from questioning the award is not valid. Since there is no proof that the Petitioner had agreed for arbitration and also the Award. Under such circumstances, I find the action of the Respondent/Management in terminating the services of the Petitioner is not justified and therefore, the Petitioner is entitled for back wages for the period from 21-09-2000 to 20-04-2003. With regard to other relief claimed by the Petitioner, I find as the Petitioner and other workmen are not regularised in service as per Labour Laws, they are entitled for temporary status.

Point No. 2 :

The next point to be decided in this case is to what relief the Petitioner is entitled?

19. In view of my foregoing findings, I find the action of the Respondent/Management, in terminating the services of the Petitioner is not justified and therefore, the Petitioner is entitled for back wages from 21-09-2000 to 20-04-2003. Ordered accordingly. No Costs.

20. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 28th October, 2004.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined:

For the Petitioner/ Workman WW1 Sri S. Sudhagar

For the II Party/ Management MW1 Maj. Virendra Pant MW2 Major Seethappa

Documents Marked:

For the I Party/Workman:

Ex. No. Date Description
W1 20-04-03 Xerox copy of the appointment order issued to Petitioner.
W2 Nil Extract of payment particulars series

For the II Party/Management:

Ex. No. Date Description
M1 Nil Arbitration Award.
M2 10-04-03 Appendix 'C' signed by Petitioner and other workmen As per arbitration proceedings.
M3 01-04-03 Xerox copy of the failure of conciliation report.

नई दिल्ली, 23 फरवरी, 2005

का.आ. 1066.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मद्रास रेजीमेन्टल सेंटर के प्रबंधनपत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय चैन्सी के पंचाट (संदर्भ संख्या 105/2003)

को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-2-2005 को प्राप्त हुआ था।

[सं. एल-14012/9/2003-आई आर (डीयू)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 23rd February, 2005

S.O. 1066.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 105/2003) of the Central Government Industrial Tribunal/ Labour Court, Chennai now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Madras Regimental Centre and their workmen, which was received by the Central Government on 23-2-2005.

[No. L-14012/9/2003-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Thursday, the 28th October, 2004

PRESENT:

K. JAYARAMAN, Presiding Officer

Industrial Dispute No. 105/2003

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Madras Regimental Centre and their workmen)

BETWEEN:

Sri N. Durai : I Party/Workman

AND

The Commandant, : II Party/Management
Madras Regimental Centre,
Wellington, Nilgiris.

APPEARANCE:

For the Workman : Sri A. Natarajan,
Authorised Representative

For the Management : Sri K.M. Venugopal,
ACGSC

AWARD

The Central Government, Ministry of Labour vide Order No. L-14012/9/2003-IR (D)U dated 14-05-2003 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :—

“Whether the action of the Commandant, Madras Regimental Centre, Wellington in terminating the services of Shri N. Durai is justified? If not, to what relief he is entitled?”

2. After the receipt of the reference, it was taken on file as I.D. No. 105/2003 and notices were issued to both the parties and both the parties entered appearance through their Authorised Representative and Advocate respectively and filed their Claim Statement and Counter Statement.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :—

The Petitioner who was employed as gardener under the Respondent/Management on regular basis since 1992 to 21st September, 2000, on which date, his services were terminated by oral orders arbitrarily. The Petitioner was paid consolidated pay of Rs. 1,200/- per month at the time of dismissal. Prior to that date, the Petitioner has represented to the Regional Provident Fund Commissioner, Chennai to effect the statutory and other social security provisions. On coming to know about the said representation, the Respondent/Management called the Petitioner on 20th September, 2000 and compelled him to affix signature on non-judicial blank stamp paper to the value of Rs. 10/- and also in other blank papers for which they have given one day's time. But, the Petitioner did not yield to this threat and therefore, the Respondent/Management issued oral instructions of dismissal through NCO garden in charge and arbitrarily dismissed the services of the Petitioner and other six gardeners. The order passed by the Respondent/Management in not following the established procedure, is arbitrary, unjust, unfair, whimsical, unlawful, illegal and unconstitutional. Subsequent to that the Petitioner has raised the dispute before labour authorities and after the failure of conciliation, the matter was referred to this Tribunal. In the meantime, after the failure of conciliation efforts, the Respondent/Management *suo moto* came forward with the offer of appointment order considering the earlier service rendered by the Petitioner and the Petitioner and others have accepted the said appointment on economic reasons without prejudice to the legitimate entitlement. In the appointment order, the Respondent/Management has stated that the arrears would not be paid to the Petitioner from the period of dismissal *i.e.* from 21-9-2000 to the date of reinstatement dated 20th April, 2003. It is illegal and unenforceable. Hence, the Petitioner prays to set aside the order of dismissal passed by the Respondent/Management as arbitrary, punitive, illegal and against the principles of natural justice and direct the Respondent/Management to pay wages for the period of dismissal from 21st September, 2000 to 20th April, 2003 and also direct the Respondent to grant social security benefits like provident fund, pension, ESI, D.A. and other consequential relief.

4. As against this, the Respondent in its Counter Statement contended that the Respondent/Management is not an industry under the definition of Industrial Disputes Act. The Respondent/Management is doing its statutory duties under the Constitution of India. Hence, this Tribunal has no jurisdiction in this matter and only Central Administrative Tribunal has got jurisdiction to decide on the order passed by the Respondent/

Management with regard to service cases. It is false to allege that the Petitioner has worked from 1992 to 20-9-2000 on regular basis. The II Party/Management employed then and there some employees to meet temporary needs at a particular point of time for particular purpose which would arise then and there and not for a continuous period to maintain gardening of various children parks and regimental gardens in the II Party/Management and it was maintained as a welfare measure for the families of troops. There is no permanent post called as gardener in the II Party/Management and hence, there is not question of fixation of pay scale for the Petitioner. The work of the gardener is not long term work and hence, there is no confirmation order passed to any of the persons involved to the above work. It is false to allege that the management has called on the Petitioner on 20-9-2000 and compelled and coerced him to affix signature on the couple of blank papers giving one day's time. There is no relationship of master and servant between the I and II Party. Wages of the temporary servants would be paid from subscription amount given by staff of army to the II Party/Management monthly towards the better welfare of battalions and they were employed totally on a casual basis. The Madras Regimental Centre cannot employ any civilian out of Govt. grants. Hence, the claim of the Petitioner cannot be sustained and the arbitration was made between the I and II Party on the factual position that wages were paid to I Party out of pockets of officials of Army and they should not be heavily taxed in the guise of heavy payment of benefits from money contributed by officials of army to Regimental Private Fund. Pursuant to arbitration award, the II Party/Management issued orders of appointment to the Petitioner subject to certain conditions and they have accepted the arbitration award. Therefore, wages from the date of dismissal from 21-9-2000 to till the date of reinstatement namely 20-4-2003 would not arise at all and provisions of Section 2(s) of Industrial Disputes Act would not apply to the case to the Petitioner. The Petitioner had not questioned nor challenged the arbitration award passed and having signed the appointment order after agreed to all the terms and conditions, now the Petitioner cannot question the arbitration award. Hence, for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. Again the Petitioner in his rejoinder contended that this Tribunal has got jurisdiction to entertain and to decide the industrial dispute and the contention of the Respondent/Management is unsustainable and not valid. Giving repeated appointments to workmen for short duration to deprive their rights under Section 25F of I.D. Act is unfair. There are different establishments and sub-establishments under the II Party/Management and there is functioning unity of ownership, supervision, finance and management and labour between the establishments and therefore, they should be treated as one establishment. The Petitioner and other gardeners worked for more than 240 days in a continuous period of 12 months and therefore, they are entitled to the benefits of I.D. Act. The alleged award is not an award within the meaning of Section 2(b) of the Act or under Section 10A of the I.D. Act. When

there is no arbitration or an award was reached between the parties, the question of challenging it does not arise. Signing the copy of the appointment order is only a token of receipt of it. Hence, for all these reasons, there is nothing to do with the arbitration award now claimed by the II Party/Management. Therefore, he prays that an award may be passed in his favour.

6. In such circumstances, the points for my determination are :—

- (i) "Whether the action of the Commandant of Respondent/Management in terminating the services of the Petitioner is justified?"
- (ii) "To what relief the Petitioner is entitled?"

Point No. 1 :

7. Though in this case, the termination of the services of the Petitioner was questioned, after the failure of conciliation report by conciliating authority, the Respondent/Management has reinstated the Petitioner in service on 20-4-2003 and therefore, the question of termination at this stage will not loom large. Therefore, we are mainly concerned in this case with regard to wages between the period from 21-9-2000 to 20-4-2003.

8. On behalf of the Petitioner, it is contended that though the Petitioner has been taken back by the Respondent/Management into service, back wages on reinstatement has to be paid by the Respondent/Management. The denial of back wages is unjustified, especially when the Petitioner has been arbitrarily dismissed from service in flagrant violation of natural justice. It is also contended on behalf of the Petitioner that even in the Respondent/Management document Ex. M2 namely the alleged Award passed between the Respondent/Management and the workmen in Appendix 'A', the date of appointment of Petitioner is mentioned as June, 1992. Further, it is also mentioned in the alleged award that the Petitioner and other workmen were appointed long back and they are still in service till 20-9-2000 and therefore, it can be presumed from the circumstances that the Petitioner has been working as a gardener in the Respondent/Management for more than 240 days in a continuous period of 12 calendar months and therefore, he is entitled to the benefits as per the provisions of Labour Laws. Though the Respondent/Management has contended that they have no records to show their appointment, their wages and other relevant records, the Petitioner has produced Ex. W2 which is salary disbursement details for the month of October, 1998, December, 1998 and May, 1999, November, 1999, March, 2000 and April, 2000. From the said records, it is clear that the Petitioner and other workmen were working for all the days in the month and a consolidated pay of Rs. 1000/- to Rs. 1300/- was paid to the workmen. Further, from the records produced by the Petitioner, it is clear that the Respondent has wantonly withheld some of the

documents which will clearly prove that the Petitioners are entitled to the provisions of Labour Laws. Under such circumstances, the Petitioner is entitled to the claim made by him.

9. But, as against this, on behalf of the Respondent it is contended that the burden of proving the fact that the Petitioner and other workmen are working under the Respondent/Management for more than 240 days in a continuous period of 12 calendar months is upon the Petitioner and the stray documents which the Petitioner produced before this Tribunal will not in any way prove that they are working for more than 240 days in a continuous period of 12 months. Further, the said documents will prove that the Petitioner and other workmen were engaged only for seasonal work and therefore, the Petitioner is not entitled to any benefits under Labour Laws. It is the further contention of the Respondent/Management that the Petitioner and other workmen were employed then and there to meet temporary needs at a particular point of time for a particular purpose which would arise then and there and not for a continuous period for maintaining gardens of various children parks and regimental garden. The II Party/Management is doing statutory duties, hence the Tribunal has no jurisdiction and only Central Administrative Tribunal has got jurisdiction to decide any order passed by any department with regard to service cases. Further, it is the contention of the Respondent that there is no question of permanent post namely gardener and there is no question of fixation of pay scale when the I Party has worked temporarily to meet the particular demand at a particular point of time. Therefore, the Petitioner is not entitled to claim any relief as prayed for.

10. In this case, to substantiate their claim, the Petitioner has examined himself as WW1 and marked the appointment order dated 20-4-2003 issued to Petitioner as Ex. W1 and extract of payment particulars as Ex. W2 series. On the other hand, the Respondent on their side examined one Major Virendra Pant as MW1 and Major Seethappa as MW2 and produced three documents namely alleged copy of arbitration award as Ex. M1, Certificate of appendix 'C' signed by Petitioner and other workmen agreeing for conciliation as Ex. M2 and the copy of failure of conciliation report submitted by conciliating authority as Ex. M3.

11. Now we will consider the contentions of Respondent—

'Whether this Tribunal has jurisdiction to enquire into the matter or not?' —Though the Respondent has raised this plea in their Counter Statement, no argument or evidence is adduced on behalf of the Respondent with regard to this contention. Even otherwise, the Respondent has not produced any exemption from the Labour Laws. The representative of the Petitioner argued that the Supreme Court in several cases has held that sovereign functions strictly understood (alone) qualify for exemption not the economic adventures undertaken by the Govt. or even in departments with sovereign functions if there are units which are industries and they are substantially

severable, they can be considered to come within section 2(j) of the I.D. Act. He further contended that the Respondent/Management is running Food Processing Training Centres (Bakery), non-canteen stores department, printing press and also cinema hall and maintaining gardens and for all these institutions they have employed more than 21 private civilian non-Govt. servants and they were paid wages out of regimental funds and not from the consolidated funds and therefore, the non-academic, non-sovereign employees of educational training institutions are covered by the definition of workman under section 2(s) of the I.D. Act and they will be treated as workman of industry and therefore, the contention of the learned counsel for the Respondent is not valid in law. I find much force in the contention of the learned representative of the Petitioner.

12. The next contention of the learned counsel for the Respondent is that the Petitioner was appointed only a seasonal casual labour i.e. to maintain the garden and they have not employed the Petitioner continuously, but the Respondent has not produced any document to show that the Petitioner was engaged only for seasonal work. On the other hand, even in the alleged arbitration award, it is stated that the Petitioner and other workmen were engaged by the Respondent/Management for a long period. Furthermore, from the documents produced by the Petitioner namely Ex. W2 series, it is clear that they have worked for all the days in a month as gardener and they have received consolidated salary paid by the Respondent. Under such circumstances, I am not inclined to believe the contention of the Respondent that the Petitioner was engaged as a seasonal temporary/Casual Labour for maintaining the garden of the Respondent/Management.

13. Then, again the learned counsel for the Respondent contended that the Petitioner and other workmen have agreed for a private arbitration and in that arbitration one Lt. Col. C. Beuny was appointed as Sole Arbitrator and after mediation, an award was passed and the Petitioner and other workmen have agreed to the terms of award. Under such circumstances, they cannot now contend against the award and they are estopped from disputing the same because they have not questioned the award passed by the Sole Arbitrator. Under such circumstances, since the Petitioner and other workmen were reappointed as gardeners and they having agreed to the terms and conditions of the appointment order, now this claim is not maintainable before this Tribunal.

14. But, the representative of the Petitioner has contended that the Respondent/Management dismissed the Petitioner and other workmen arbitrarily from service with a malafide intention and this is a colourable exercise of power, arbitrary, unfair and unjust and therefore, they cannot now contend that the Petitioner and other workmen agreed for the private arbitration and they have signed in the award of Sole Arbitrator. It is his further contention that even though the Respondent contended that the Petitioner and other workmen had accepted for the private arbitration, there is no agreement for appointment of private arbitrator, on the other hand, even under the notice dated

22-3-2003, Lt. Col. Paul George has stated that Commandant has nominated the Sole Arbitrator. It is not stated that as per agreement, the Arbitrator has been nominated. Under such circumstances, it cannot be said that there was an arbitration and it was accepted by the Petitioner and other workmen. With regard to the signature in the copy of the appointment order, it is only a token of receipt of it. Though the Respondent produced copy of the alleged award with Appendix 'C', the appendix 'C' produced along with arbitration award namely Ex. M1 is not the real Appendix 'C' because even in the report of the alleged Sole Arbitrator in para 8 he has mentioned that letters dated 20-3-2003 and 22-3-2003 are enclosed as Appendix 'B' and 'C' respectively. But, now in the arbitration award, there is no Appendix 'B' but Appendix 'C' as enclosed relates to mere acknowledgement of receipt of order. Therefore, it cannot be said that arbitration award was accepted by the Petitioner and other workmen. The said letter was obtained by undue influence of the Respondent/Management because at no point of time, the Petitioner and other workmen accepted for sole arbitration after the failure of conciliation before the Labour authorities. It is his further contention that the Arbitration Award is not consonance with the Industrial Laws. It was not passed as per Section 10A of I.D. Act nor under any law. There is no representative for the workmen side who has associated with the alleged arbitration proceedings and in the absence of which the alleged arbitration is bad in law and it is not sustainable. Further, the settlement alleged to have been reached between the parties that there shall be no arrears of back wages is unlawful and opposed to public policy and the Petitioner and other workmen never accepted the contention that back wages need not be paid for the period which the Respondent has unlawfully disengaged the Petitioner and other workmen. Further, it is not established before this Court that this letter Ex. M2 was given by the Petitioner after knowing the contents of the said letter. It is his further argument that giving repeated appointment to workman for short duration was to deprive them the rights under section 25F of the I.D. Act which is unfair. In this case, the Respondent/Management has wantonly to deprive the rights of the Petitioner and other workmen had disengaged the workmen and subsequently in view of the judgement in Writ Petition filed by the Food Processing Training Centre workmen in High Court, the Respondent/Management again reinstated the Petitioner and other workmen but without any back wages which is unlawful and not sustainable in law.

15. I find some force in the contention of the Representative for the Petitioner. Further, in the W.P. No. 17457/99 one Mr. P. Ramakrishnan and Mr. V. K. Mohandas who are working in Food Processing Training Centre have filed Writ Petition when they were disengaged by the same Respondent/Management. In that Writ Petition also the Respondent had contended that they were engaged only as seasonal workers. But, the High Court had rejected the contention of the Respondent/Management and directed the Respondent/Management to regularise the services of the said persons. Now the Respondent

contended that there is separate funds for running Food Processing Training Centre and it was not run from the Regimental funds and therefore, the Petitioner cannot compare the appointment of S/Sri Ramakrishnan & Mohandas for their work.

16. But, here again, I find there is no point in the contention of the learned counsel for the Respondent because, I find from the judgment of High Court that the Respondent has taken the stand that the Food Processing Training Centre is running from the Regimental funds and therefore, I find the Respondent has taken a different stand in different forums. Further, when the Petitioner has filed a petition for production of documents which are in the custody of the Respondent, the Respondent/Management has contended that there was no such document in their custody and they were not maintaining any records with regard to the Petitioner and other workmen. When the Petitioner has produced Ex. W2, it is clear that the Respondent has got registers to show that the Petitioner's engagement as a gardener, the appointment and wages for the said persons. Under such circumstances, the respondent has wantonly taken the stand that the Petitioners are temporary casual labourers and they are seasonal workers worked in gardens. I find there is no truth in the contention of the Respondent that the Petitioners were working only as seasonal casual labourers.

17. Then, again the learned counsel for the Respondent contended that burden of proving the fact that the Petitioners are working continuously for more than 240 days in a continuous period of 12 calendar months is upon them, but in this case, they have not produced any substantial evidence to prove that they are in continuous employment under the Respondent for more than 240 days in a period of 12 calendar months and therefore they are not entitled to any relief. It is his further contention that since the Petitioners are reinstated in service, there need not be any relief asked by them, when they have agreed for the arbitration award and therefore, the claim of the Petitioner is to be rejected by this Tribunal.

18. But, I find there is no point in the contention of the learned counsel for the Respondent because it is clear that the Petitioner and other workmen were working for more than 240 days in a continuous period of 12 calendar months and the documents produced by the Petitioner clearly prove the circumstances that the Respondent wantonly suppressed before this Tribunal to produce the documents required by the Petitioner. Under such circumstances, this Court can presume that the Petitioner has worked for more than 240 days in a continuous period of 12 calendar months and therefore, the retrenchment of the Petitioner by the Respondent/Management is not valid under law. Even though they have reinstated in service, they were not paid back wages. The reason given by the Respondent that they have agreed to the conditions of private arbitration award and hence they are estopped from questioning the award is not valid, since there is no proof that the Petitioner had agreed for arbitration and also the Award. Under such circumstances, I find the action of the Respondent/Management in terminating the

services of the Petitioner is not justified and therefore, the Petitioner is entitled for back wages for the period from 21-09-2000 to 20-04-2003. With regard to other relief claimed by the Petitioner, I find as the Petitioner and other workmen are not regularised in service, as per Labour Laws, they are entitled for temporary status.

Point No. 2:

The next point to be decided in this case is to what relief the Petitioner is entitled?

19. In view of my foregoing findings, I find the action of the Respondent/Management in terminating the services of the Petitioner is not justified and therefore, the Petitioner is entitled for back wages from 21-09-2000 to 20-04-2003. Ordered accordingly. No Costs.

20. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 28th October, 2004.

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the Petitioner/	WW1 Sri N. Durai
Workman	
For the II Party/	MW1 Maj. Virendra Pant
Management	MW2 Maj. Seethappa

Documents Marked :—

For the I Party/Workman :—

Ex. No.	Date	Description
W1	20-04-03	Xerox copy of the appointment order issued to Petitioner
W2	Nil series	Extract of payment particulars.

For the II Party/Management :—

Ex. No.	Date	Description
M1	Nil	Arbitration Award
M2	10-04-03	Appendix 'C' signed by Petitioner and other workmen. As per arbitration proceedings.
M3	01-01-03	Xerox copy of the failure of conciliation report.

नई दिल्ली, 23 फरवरी, 2005

का.आ. 1067.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर पश्चिमी रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय औद्योगिक अधिकरण, जयपुर के पंचाट (संदर्भ संख्या आई.डी. सं. 5/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-02-2005 को प्राप्त हुआ था।

[सं. एल. 41011/50/1995—आई आर (बी-1)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 23rd February, 2005

S.O. 1067.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. I.D. No. 5/99) of the Central Industrial Tribunal, Jaipur now as shown in the annexure in the Industrial Dispute between the employers in relation to the management of North Western Railway and their workman, which was received by the Central Government on 22-02-2005.

[No. L-41011/50/95-IR (B-1)]

B.M. DAVID, Under Secy.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 5/99

रेफरेंस : केन्द्रीय सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्र. एल. 41011/50/95-आई. आर. (बी. 1) दिनांक 12-3-99

.....

महामंत्री, कैज्युअल लेबर यूनियन जरिये शिव अवतार सिंह, डागा स्कूल के पास, बीकानेर (कर्मचारी श्री रामचन्द्र व अन्य)प्रार्थी

बनाम

- महाप्रबन्धक, उत्तर पश्चिम रेलवे मुख्यालय, जयपुर।
- मण्डल कार्मिक अधिकारी, उत्तर पश्चिम रेलवे, बीकानेर।
- मण्डल अधिक्षण अभियन्ता, उत्तर पश्चिम रेलवे, बीकानेर।
- सहायक अभियन्ता (द्वितीय) उत्तर पश्चिम रेलवे, हनुमानगढ़ जं।
- रेल पथ निरीक्षक, उत्तर पश्चिम रेलवे, ऐलनाबाद।
- रेल पथ निरीक्षक, उत्तर पश्चिम रेलवे, जैतसर जिला, गंगानगर।
- रेल पथ निरीक्षक, उत्तर पश्चिम रेलवे, श्रीगंगानगर।

....अपार्थीगण

उपस्थित

पीठासीन अधिकारी

: श्री पी.एल. हिस्सारिया,
आर.एच.जे.एस.

प्रार्थी यूनियन की ओर से

: श्री अरविंद सिंह सैंगरं

अप्रार्थी की ओर से

: श्रीमती माया जैन

दिनांक आवार्ड : 28-1-2005

अवार्ड

1. भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा निम्न विवाद इस अधिकरण को अधिनियमार्थ प्रेपित किया गया है। दिनांक 27-11-2001 के पत्र द्वारा रेफरेंस के साथ पूर्व में भेजी गई श्रमिकगण की सूची में भारत सरकार द्वारा संशोधन किया गया है और संशोधन के पश्चात् विवाद निम्न प्रकार से है :—

"Whether the 18 workmen whose names, date of employment and date of termination mentioned in the list annexed are entitled for reinstatement with back wages? If not, to what relief the workmen are entitled to and from what date?"

Sl. No.	Name	Date of appointment	Date of termination
1.	Ramchandra/Kaluram	15-9-84	5-7-86
2.	Ramnareshan Baruwa/ Prabhudayal	31-7-84	5-7-86
3.	Ramchandra/Shyamalal	15-10-84	5-7-86
4.	Bhanwarsingh/ Manghasingh	1-9-84	5-7-86
5.	Ramesh Kumar/ Ramkishan	28-7-84	5-7-86
6.	Ramesh Kumar/Sitaram	3-7-83	5-7-86
7.	Jawaharlal/Birbal	15-10-84	11-2-86
8.	Keshra Ram/Chitraram	1-9-83	17-10-86
9.	Suresh Kumar/ Ramkumar	27-7-83	13-11-84
10.	Hasan Abbas/Taheil Hussain	15-10-84	14-12-84
11.	Dayaram?Munshiram	1-12-84	21-5-84
12.	Badarsingh/Durjansingh	7-1-84	1-8-86
13.	Shambhudayal/ Jodharam	15-9-84	1-8-86
14.	Ramdulara/Baburam	20-7-84	5-7-86
15.	Ramdhani/Matafair	3-5-84	5-7-86
16.	Ramjas/Ramsujan	26-10-84	5-7-86
17.	Ghanshyam/Bhikhup	16-12-84	5-7-84
18.	Bodukhan/Sultankhan	1-9-84	5-7-84

2. प्रार्थी यूनियन की ओर से विवाद के समर्थन में बाद पत्र पेश किया गया है कि उपरोक्त सभी कर्मचारियों ने एक वर्ष में लगातार 240 दिन से अधिक अप्रार्थी संस्थान में कार्य किया है। कर्मचारियों की सेवा रेल पथ निरीक्षक, उत्तर रेलवे ने अपने मौखिक आदेश से समाप्त कर मस्ट्रोल से उनके नाम काट दिये। कर्मचारियों की सेवा अनाधिकृत रूप से समाप्त की गई है। सेवा समाप्ति से पूर्व उन्हें एक माह का नोटिस अथवा नोटिस वेतन एवं छंटनी मुआवज़ा आदि नहीं दिया गया और न ही "पहले आये पीछे जायें, के सिद्धांत का पालन किया" इस प्रकार धारा 25-एफ, जी एवं एच औद्योगिक विवाद अधिनियम, 1947 (जिसे तत्पश्चात् अधिनियम लिखा जा रहा है) के प्रावधानों का उल्लंघन किया गया है। कर्मचारियों के साथ अनफेयर लेबर प्रक्रिट्स की नीति अपनाते हुए उनकी सेवावधि बार-बार अनाधिकृत रूप से बढ़ाई गई है ताकि धारा 2(बीबी) अधिनियम का लाभ अप्रार्थी उठा सके जबकि नियुक्ति के समय ऐसा कोई समझौता नहीं हुआ था। सभी श्रमिकगण ने 240 दिन तक लगातार कार्य किया है अतः सभी श्रमिकगण गैंगमैन के पद पर पुनः सेवा में समस्त पिछले वेतन व अन्य लाभ सहित पुनः बहाल होने के अधिकारी हैं और इसी आशय का अवार्ड पारित किये जाने की प्रार्थना की गई है।

3. अपार्थीगण की ओर से क्लेम का जवाब दावा प्रस्तुत किया गया है जिसके अनुसार क्लेम में केवल श्रमिकगण के नाम, उनकी नियुक्ति तिथि व सेवा पृथक्करण तिथि दी गई है और इन तथ्यों की

पुष्टि में कोई विधिसंगत प्रमाण प्रस्तुत नहीं किये हैं। श्रमिकगण ने 240 दिन से अधिक लगातार श्रमिकगण ने कार्य किया हो, ऐसा कोई प्रलेख प्रस्तुत नहीं किया है। 1983-84 में इमरजेंसी के समय रेलों के संचालन में असुविधा पैदा होने के कारण रेलों को सुरक्षित रूप से चलाने के लिए श्रमिकों की आवश्यकता थी अतः रेलवे प्रशासन ने उपरोक्त 18 श्रमिकों को निर्धारित समय के लिए ट्रैक पैट्रोलिंग के कार्य हेतु कैज्यूल लेबर के रूप में दैनिक वेतन भोगी के रूप में रखा था जो टी.एल.ए. बेसिस पर थी इनकी समयावधि 5-7-86 तक थी जो इन्हें स्पष्टतया बता दिया गया था। श्रमिक श्री दयाराम स्वयं की इच्छा से नौकरी छोड़कर चला गया था, इसी प्रकार श्री जवाहर लाल, श्री केदार राम, सुरेश कुमार पुत्र श्री रामकुमार च हसन अब्बास भी 5-7-86 से पूर्व ही नौकरी छोड़कर चले गये। क्लेम में जेवर सिंह पुत्र दुर्जन सिंह बताया गया है जबकि रैफरेंस में बदर सिंह पुत्र दुर्जन सिंह का नाम है। इस नाम के व्यक्ति को कभी रखा नहीं गया, इसी प्रकार शम्भूदयाल पुत्र जोधाराम नाम के किसी व्यक्ति ने ऐलनाबाद के अन्तर्गत कभी कार्य नहीं किया। बास्तव में श्री शम्भू पुत्र कुरड़ा राम ने कार्य किया है। इस प्रकार क्लेम में नामों में विरोधाभास है। उपरोक्त श्रमिकों, जो स्वयं सेवा छोड़कर गये, के अंतिरिक्त सभी श्रमिकों की सेवा अवधि दिनांक 5-7-86 को स्वतः ही समाप्त हो गई उनकी छंटनी नहीं की गई है ऐसे में धारा 25-एक के अधिनियम के प्रावधान लागू नहीं होते। अतः प्रार्थीगण कोई राहत प्राप्त करने के अधिकारी नहीं हैं।

4. जवाब के विशेष विवरण व आपत्तियों में अप्रार्थी ने कथन किया है कि श्रमिकगण तथाकथित यूनियन के सदस्य हैं इसका कोई प्रमाण पेश नहीं किया गया है, जिस कार्य विशेष के लिए श्रमिकगण की नियुक्ति की गई थी वह कार्य समाप्त हो जाने पर उनकी सेवाएं स्वतः समाप्त हो गई तथा विवाद सात वर्ष की देरी से प्रस्तुत किया गया है अतः श्रमिकगण किसी राहत के अधिकारी नहीं हैं।

5. प्रार्थी यूनियन ने अप्रार्थी के जवाब का प्रत्युत्तर पेश किया है कि रेलवे ऐस्टेबलिशमेंट मैन्युअल की धारा 2514-1(पी.) (11) में प्रावधान है कि रेलवे प्रशासन के ज्यूल लेबर का प्रथम नियुक्ति दिनांक से समुचित रिकार्ड रखे अतः रेलवे प्रशासन इसके लिए कानूनी रूप से बाध्य है और इन श्रमिकगण के कार्य दिवसों का रिकार्ड उन्हें प्रस्तुत करना चाहिये। यूनियन द्वारा श्रमिकगण के कार्य दिवसों का रिकार्ड समझौता अधिकारी के समक्ष पेश किया गया है जिसकी फोटो प्रतियां अधिकरण के समक्ष पेश किया जाना कहा है। इमरजेंसी 1975-77 तक लगाई गई थी जबकि श्रमिकगण की नियुक्ति 1983 में हुई थी और इन श्रमिकगण की रेल पथ के रख-रखाव कार्य के लिए नियुक्ति किया गया था तो स्थाई प्रकृति का कार्य है। इन श्रमिकगण ने 1983 से 5-7-86 तक लगातार कार्य किया अतः रेलवे बोर्ड के स्थाई आदेश दिनांक 31-7-73 के अनुसार ये कर्मचारीगण स्वतः ही 120 दिन कार्य पूरा करने के पश्चात् केन्द्रीय वेतनमान का वेतन व भत्ता पाने के अधिकारी हो गये थे इस प्रकार ये दैनिक वेतनभोगी कर्मचारी नहीं रहे थे। श्रमिकगण ने अपनी स्वेच्छा से सेवा नहीं छोड़ी बल्कि भौखिक आदेश से इन्हें हटाया गया और अगले टी.एल.ए. में उनका नाम नहीं लिखा। इस प्रकार धारा 25-एक जी-व एच अधिनियम के प्रावधानों को उल्लंघन में श्रमिकगण की सेवाएं समाप्त की गई हैं। कर्मचारीगण ने जानबूझकर विवाद देरी से पेश नहीं किया बल्कि कर्मचारीगण व नियोजक पक्ष के बीच 1992 में विवाद उत्पन्न हुआ जब कनिष्ठ कर्मचारीगण को स्कॉनिंग के लिए बुलाया गया और उनको नियुक्तियों से गई और लिमिटेशन एक्ट औद्योगिक विवाद पर लागू नहीं होता न ही कर्मचारीगण ने जानबूझकर

देरी की है। अतः प्रार्थीगण पुनः सेवा में आने के अधिकारी हैं, उनका क्लेम स्वीकार किया जाये।

6. प्रार्थी यूनियन की ओर से पी. डब्ल्यू-1 लगायत पी. डब्ल्यू-17 के शपथ पत्र पेश किये गये हैं जिनसे अप्रार्थी के विद्वान प्रतिनिधि ने जिरह की हैं और प्रदर्श डब्ल्यू-1 लगायत डब्ल्यू-30 दस्तावेज प्रदर्श कराये। अप्रार्थी की ओर से कुंज बिहारी, खण्ड अधियन्ता का शपथ पत्र पेश हुआ है जिसपर प्रार्थीगण के विद्वान प्रतिनिधि ने जिरह की है। दोनों पक्षों की ओर से लिखित बहस भी पेश की गई है एवं मौखिक बहस भी की गई।

7. मैंने पत्रावली का ध्यानपूर्वक अवलोकन किया, लिखित बहस को पढ़ा व मौखिक बहस एवं लिखित बहस पर पूरी तरह मनन किया।

8. जिन 18 श्रमिकों की बाबत विवाद प्रस्तुत हुआ है उनमें श्रमिक सं. 4 भंवर सिंह पुत्र मध्यासिंह के स्थान पर भंवर सिंह पुत्र रूप सिंह ने अपना क्लेम पेश किया है और साक्ष्य दी है जबकि भंवर सिंह पुत्र रूप सिंह का कोई विवाद हमारे समक्ष पेश नहीं हुआ है। श्रमिक सं. 12 बदर सिंह पुत्र दुर्जन सिंह का विवाद रैफर किया गया है लेकिन क्लेम जेवर सिंह पुत्र दुर्जन सिंह ने पेश किया है जिसका कोई विवाद रैफर नहीं हुआ है। इसलिए भंवर सिंह पुत्र मंचा सिंह और बदर सिंह पुत्र दुर्जन सिंह जिनका विवाद पेश हुआ है उनकी ओर से कोई क्लेम व साक्ष्य पेश नहीं होने के कारण उनके विरुद्ध नो डिस्यूट अवार्ड पारित किया जाता है। जहां तक भंवर सिंह पुत्र रूप सिंह व जेवर सिंह पुत्र दुर्जन सिंह का प्रश्न है, उन्होंने क्लेम पेश किया है किन्तु उनका विवाद रैफर नहीं किया गया है इसलिए ये श्रमिक चाहें तो अपने नाम से विवाद को पुनः रैफर कराने के लिए स्वतंत्र हैं। चंकि इनका विवाद रैफर नहीं हुआ है इसलिए इन दोनों व्यक्तियों के संबंध में कोई अवार्ड पारित नहीं किया जा सकता। श्रमिक सं. 10 हुसैन अब्बास साक्ष्य में प्रस्तुत नहीं हुआ है और उसने अपने पक्ष में किसी प्रकार की कोई साक्ष्य नहीं दी है। प्रार्थीगण के विद्वान प्रतिनिधि का मुख्य तर्क यह रहा है कि सभी श्रमिकगण ने 240 दिन से अधिक कार्य किया है और उनको बिना कोई नोटिस दिये, बिना कारण-बताये सेवा से पृथक कर दिया है। परन्तु जो साक्ष्य पेश की गई है उसमें श्रमिक सं. 8 के सराराम पी. डब्ल्यू-5 ने अपने शपथ पत्र एवं प्रदर्श डब्ल्यू-23 दस्तावेज में 33 दिन काम करना बताया है। श्रमिक सं. 9 सुरेश कुमार पी. डब्ल्यू-3 ने अपने शपथ पत्र में 90 दिन काम करना कहा है और जो दस्तावेज प्रदर्श डब्ल्यू-6 पेश किया है वह सिर्फ 89 दिवस का है। श्रमिक सं. 10 हुसैन अब्बास ने अपने काम की बाबत कोई साक्ष्य ही पेश नहीं की है। श्रमिक सं. 11 दयाराम पी. डब्ल्यू-2 ने अपने शपथ पत्र में 106 दिन कार्य करना कहा है परन्तु जो दस्तावेज डब्ल्यू-26 पेश किया है वह 29 दिन मात्र का है। श्रमिक सं. 13 शम्भू दयाल पी. डब्ल्यू-15 ने अपने शपथ पत्र में 240 दिन से अधिक कार्य करना कहा है लेकिन इस संबंध में किसी प्रकार का दस्तावेज पेश नहीं किया। जो दस्तावेज प्रदर्श डब्ल्यू-28 पेश किया गया है वह मेडीकल चैंपिंग का प्रमाण पत्र है जिससे उसने 240 दिन से अधिक कार्य किया हो, यह प्रकट नहीं होता। इसलिए श्रमिक सं. 8 के सराराम, श्रमिक सं. 9 सुरेश कुमार, श्रमिक सं. 10 हुसैन अब्बास, श्रमिक सं. 11 दयाराम व श्रमिक सं. 13 शम्भू दयाल के लिए 240 दिन कार्य करने की साक्ष्य भर्ती हैं इनके सामले भी थारा 25-एक अधिनियम के प्रावधान आकर्षित नहीं होते। प्रार्थीगण के विद्वान प्रतिनिधि ने तर्क दिया है कि हुसैन अब्बास के अलावा अन्य श्रमिकगण जिनके ऊपर नाम लिखे गये हैं, ने 240 दिन कार्य नहीं किया इसलिए थारा 25-एक अधिनियम के प्रावधान तो इनके मामले में आकर्षित नहीं होते किन्तु

अप्रार्थी ने धारा 25-जी एवं 25-एच अधिनियम की पालना नहीं की है और उनसे कनिष्ठ श्रमिकों को कार्य पर रखा है, जिसकी सूची प्रदर्श डब्ल्यू-3 है। इस कारण इन श्रमिक सं० 8, 9, 11 एवं 13 के लिए अप्रार्थी ने धारा 25-जी व एच के प्रावधानों का उल्लंघन किया है, इस कारण ये श्रमिकगण पुनः सेवा में आने के अधिकारी हैं। अपने तर्क के समर्थन में प्रार्थीगण के विद्वान प्रतिनिधि ने निम्न प्रोटोकॉल प्रस्तुत किये हैं :

1. इन्वार्च गवर्नमेंट हाईड फ्लाइंग सैन्टर व अन्य बनाम रामाराम व अन्य, 2003 एस.सी.सी. (एल. एण्ड एस) 1170

2. जी.एम. नार्दन रेलवे बनाम सी.आई.टी एवं रेलवे कैज्यूअल लेबर यूनियन बनाम सैन्ट्रल मैनेजर, नार्दन रेलवे आर. एल. आर. 1991 (1) (राज०) 577

3. राज्य बनाम विनय कुमार आदि डब्ल्यू.एल.एन. (यू.सी.) 1978 (राज.) 223

9. इसके प्रतिकूल अप्रार्थी के विद्वान प्रतिनिधि का तर्क है कि प्रदर्श डब्ल्यू-3 को प्रथीगण ने कहीं भी साक्षित नहीं किया है, न अपने क्लेम में बताया है कि इन श्रमिकों से कनिष्ठ कौनसे श्रमिक थे, उनको कब रखा गया और न इस बाबत कोई प्रमाणित साक्ष्य दी गई है। अप्रार्थी ने धारा 25-जी एवं 25 एच अधिनियम का किसी प्रकार उल्लंघन नहीं किया है और ये श्रमिकगण किसी भी प्रकार पुनः सेवा में आने के अधिकारी नहीं हैं क्योंकि ये सभी श्रमिकगण स्वयं अपनी इच्छा से विना कोई सूचना दिये कार्य पर नहीं आये और अब आकर यह नहीं कह सकते कि उन्हें कार्य से हटाया गया है इसलिए उन्हें वापस रखा जाये। अपने तर्क के समर्थन में विद्वान प्रतिनिधि ने निम्न प्रोटोकॉल प्रस्तुत किये हैं :

1. राम गोपाल सैनी बनाम जज लेबर कोर्ट नं० 2, जयपुर 2001(1) डब्ल्यू.एल.सी. (राज०) 592

10. मैंने दोनों पक्षों के तर्कों पर गंभीरता से विचार किया, प्रस्तुत किये गये प्रोटोकॉल को आदर सहित पढ़ा।

11. यह तथ्य दोनों पक्षों को स्वीकार है कि श्रमिक सं० 6, 9, 11 एवं 13 ने 240 दिन तक कार्य नहीं किया और इनके मामले में धारा 25-एच अधिनियम लागू नहीं होता है। जहां तक इनसे कनिष्ठ श्रमिकों को पुनः काम पर लिये जाने का प्रश्न है, मात्र एक सूची प्रदर्श डब्ल्यू-3 पेश हुआ है जिसको साक्ष्य से प्रमाणित नहीं किया गया है और अपने क्लेम में व साक्ष्य में यह नहीं बताया गया है कि किन-किन श्रमिकों को कब कब पुनः नियोजित किया गया और उन्हें कब तक रखा गया तथा यह भी नहीं बताया कि वे स्वयं कार्य छोड़कर नहीं गये हैं। ऐसी सूरत में इन श्रमिकगण के मामले में धारा 25-जी एवं 25-एच अधिनियम के प्रावधान का उल्लंघन होना नहीं पाया जाता और ये श्रमिकगण किसी प्रकार की कोई राहत पाने के अधिकारी नहीं हैं। श्रमिक सं० 10 हुसैन अब्बास ने कोई साक्ष्य पेश नहीं की है इसलिए किसी प्रकार की राहत पाने का अधिकारी नहीं है।

12. अन्य सभी श्रमिकगण ने अपनी मौखिक साक्ष्य दी है जिसकी पुष्टि में दस्तावेज पेश किये हैं और उनसे यह भली भाँति प्रमाणित हो जाता है कि उन सभी ने 240 दिन से अधिक कार्य किया है। यह तथ्य दोनों पक्षों को स्वीकार्य है कि इन श्रमिकों को धारा 25-एच अधिनियम के अन्तर्गत न तो कोई नोटिस दिया गया है, न कोई मुआवजा दिया गया

है। अप्रार्थी के विद्वान प्रतिनिधि का यह तर्क है कि इनको अनियमित तरीके से रखा गया था, सक्षम अधिकारी द्वारा नियुक्त नहीं दी गई थी, इनको एक सीमित अवधि के लिए रखा गया था और अवधि समाप्त होने पर उनकी स्वतः सेवा समाप्त हो गई और वे कोई राहत पाने के अधिकारी नहीं हैं, मानने योग्य नहीं है क्योंकि सीमित अवधि को नियुक्त दी गई है, उसको समय-समय पर बढ़ाया गया है तब वह सीमित अवधि नहीं रह जाती और इन श्रमिकों ने निश्चित तौर पर 240 दिन से अधिक काम किया है। अतः इनके मामले में धारा 2(00) (बीबी) अधिनियम के प्रावधान लागू नहीं होते। निश्चित तौर पर 25-एच अधिनियम के प्रावधानों का उल्लंघन हुआ है। जहां तक अनियमित नियुक्ति का प्रश्न है, ऐसी भी कोई साक्ष्य नहीं आई है कि किसी सक्षम अधिकारी ने उन्हें नियुक्त नहीं किया हो, यदि ऐसा मान भी लिया जाता है तब भी अप्रार्थी के किसी गलत कृत्य के लिए प्रार्थी को दण्डित नहीं किया जा सकता। अतः इन सभी श्रमिकगण सं० 1 रामचन्द्र पुत्र कालू राम, सं० 2 राम नरेश पुत्र प्रभु दयाल, सं० 3 राम चन्द्र पुत्र श्यामलाल, सं० 5 रमेश कुमार पुत्र राम किशन, सं० 6 राम कुमार पुत्र सीता राम सं० 7 जवाहर लाल पुत्र बीरबल, सं० 14 राम दुलारा पुत्र बाबू राम, सं० 15 रामधनी पुत्र माताफर, सं० 16 रामजस पुत्र रामसमझ, सं० 17 घनश्याम पुत्र भीखू प्रसाद, सं० 18 बोदू खां पुत्र सुल्तान खां कुल 11 श्रमिकों को सेवा पृथक करना, चाहे वह मौखिक रूप से ही किया गया हो, गलत व अवैध है। इन श्रमिकगण को धारा 25-एच अधिनियम की पालना में कोई नोटिस, नोटिस वेतन एवं मुआवजा आदि नहीं दिया गया है, अतः वे पुनः सेवा में आने के अधिकारी हैं।

13. यहां यह भी लिखना न्यायोचित है कि इसी संबंध में इसी तारीख को सेवा मुक्ति के लिए 184 श्रमिकों के लिए एक रैफरैंस पेश किया गया था जिसके अधिकरण ने स्वीकार कर उन्हें पुनः नियोजित करने का आदेश दिया जिसकी एक एस.बी. सिविल रिट पिटीशन सं० 4322/91 अप्रार्थी रेलवे प्रशासन ने माननीय राजस्थान उच्च न्यायालय के समक्ष प्रस्तुत की जिसका निर्णय दिनांक 11-3-96 में माननीय राजस्थान उच्च न्यायालय ने उस रिट याचिका को खारिज करते हुए सभी श्रमिकों को समस्त पिछले वेतन व अन्य लाभ के साथ पुनः नियोजित करने का आदेश दिया और अप्रार्थी के विद्वान प्रतिनिधि ने जो तर्क मेरे समक्ष उठाये हैं वे तर्क उस रिट याचिका में भी उठाये गये हैं जिनको माननीय उच्च न्यायालय ने स्वीकार नहीं किया। इसलिए उन तर्कों को यहां दोहराने की आवश्यकता नहीं रह जाती है और उक्त 11 श्रमिक सं० 1, 2, 3, 5, 6, 7, 14, 15, 16, 17 एवं 18 सेवा पृथक्करण तिथि दिनांक 5-7-86 से समस्त पिछले वेतन व अन्य लाभ सहित पुनः सेवा में आने के अधिकारी हैं। अतः प्रकरण में निम्न प्रकार अवार्ड पारित किया जाता है :

1. श्रमिक भंवर सिंह पुत्र मधाराम व बदर सिंह पुत्र दुर्जन सिंह का कोई क्लेम पेश नहीं होने के कारण इन दोनों के संबंध में नो डिस्प्यूट अवार्ड पारित किया जाता है।
2. भंवर सिंह पुत्र रूप सिंह एवं जेवर सिंह पुत्र दुर्जन सिंह ने क्लेम पेश किया है किन्तु उनका कोई विवाद पेश नहीं हुआ है, अतः इनके संबंध में कोई अवार्ड पारित नहीं किया जा सकता।
3. हुसैन अब्बास ने कोई साक्ष्य पेश नहीं की है। दयाराम पुत्र मुंशीराम, केसरा राम पुत्र चितरा राम, सुरेश कुमार पुत्र राम कुमार व शम्भू दयाल पुत्र जोधाराम ने अप्रार्थी संस्थान में

240 दिन कार्य नहीं किया है अतः वे कोई राहत पाने के अधिकारी नहीं हैं।

4. शेष सभी श्रमिकगण सर्वश्री रामचन्द्र पुत्र कालूराम, राम नरेश पुत्र प्रभु दयाल, राम चन्द्र पुत्र श्याम लाल, रमेश कुमार पुत्र राम किशन, राम कुमार पुत्र सीताराम, जवाहर लाल पुत्र बीरबल, रामदलाला पुत्र बाबू राम, रामधनी पुत्र माताफेयर, रामजस पुत्र रामसमझ, घनश्याम पुत्र भीखु प्रसाद व बोदू खां पुत्र सुलतान खां कुल 11 श्रमिकों की सेवा मुक्ति अनुचित व अवैध है जिसे अंपास्त किया जाता है और ये श्रमिकगण अपने पिछले समस्त वेतन एवं अन्य सभी लाभ सहित पुनः सेवा में नियोजित होने के अधिकारी हैं।"

14. उक्त आशय का अवार्ड लिखाया जाकर आज दिनांक 28-1-2005 को खुले न्यायालय में सुनाया गया जो केन्द्र सरकार को प्रकाशनार्थ नियमानुसार भेजा जावे।

पी० एल० हिस्सारिया, पीठासीन अधिकारी
नई दिल्ली, 23 फरवरी, 2005

का०आ० 1068.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तरी रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय कानपुर, उ०प्र० के पंचाट (संदर्भ आई.डी. सं. 215/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-02-2005 को प्राप्त हुआ था।

[सं. एल-41011/97/96-आई आर (बी-1)]

बी०एम० डेविड, अवर सचिव

New Delhi, the 23rd February, 2005

S.O. 1068.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. I.D. No. 215 of 97) of the Central Government Industrial Tribunal/ Labour Court, Kanpur, U.P. now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Northern Railway and their workman, which was received by the Central Government on 22-02-2005.

[No. L-41011/97/96-IR (B-1)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE SRI SURESH CHANDRA PRESIDING
OFFICER CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
SARVODAYA NAGAR, KANPUR, U.P.
INDUSTRIAL DISPUTE NO. 215 of 97

In the matter of the dispute between

Sri Dinanath Tiwari,
Divisional Organising Secretary,
Uttar Railway Karamchari Union
2, Navin Market Parade Kanpur

AND

Divisional Railway Manager,
Northern Railway,
Allahabad

AWARD

1. The Central Government, Ministry of Labour New Delhi, *vide* notification No. 41011/97/96-IR (B) dated 1-10-97 has referred the following dispute for adjudication to this Tribunal :

KYा MANDAL RAIL PRABANDHAK UTTAR RAILWAY ALLAHABAD KE DWARĀ ANULAGNAK ME DIYE GAYE KARAM-CHARIYO KO VARSH 1983 KE SCREENING PANEL KE ADHAR PAR VARIYATA NA DEIYA JANA UCHIT AVAM VAIDHANIK HAI? YADI NAHI TO SAMBANDHIT KARMKAR KIS ANUTOSH KE HAQDAR HAI ?

2. It will be unnecessary to give full details of the case as after exchange of pleadings between the parties, when the case was taken up for hearing on 12-10-04, Sri Dinanath Tiwari who has espoused the present industrial dispute appeared in the case and submitted before the tribunal that he has no instructions to submit more in the case. In view of his statement given above, the tribunal is left with no other option but to hold that the workmen involved in the case are not entitled to get any relief in the case for want of evidence.

3. Accordingly the reference is decided in affirmative and against the Union holding that the union is not entitled to get any relief in the present dispute for want of evidence.

4. Reference is answered accordingly.

SURESH CHANDRA, Presiding Officer
नई दिल्ली, 23 फरवरी, 2005

का.आ० 1069.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तरी रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय II, नई दिल्ली के पंचाट (संदर्भ संख्या आई.डी. सं. 45/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-02-2005 को प्राप्त हुआ था।

[सं. एल-41012/115/97-आई आर (बी-1)]

बी०एम० डेविड, अवर सचिव

New Delhi, the 23rd February, 2005

S.O. 1069.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. I.D. No. 45/98) of the Central Government Industrial Tribunal/ Labour Court, II, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Northern Railway and their workman, which was received by the Central Government on 22-02-2005.

[No. L-41012/115/97-IR (B-1)]

B. M. DAVID, Under Secy.

ANNEXURE

**BEFORE THE PRESIDING OFFICER :
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II,
RAJENDRA BHAWAN, GROUND FLOOR,
RAJENDRA PLACE,
NEW DELHI**

Presiding Officer : R. N. RAI

I.D. No. 45/98

IN THE MATTER OF :

Sh. Munj Behari,
S/o Sh. Jagmohan, R/o Qtr. No. GH/A,
Subzi Mandi, Rly. Colony,
Delhi-7.

VERSUS

The Divisional Railway Manager,
Northern Railway, DRM Office,
State Entry Road,
New Delhi-01

AWARD

The Ministry of Labour by its letter No. L-41012/115/97-IR (B. I) Central Government Dt. 17-2-1998 has referred the following point for adjudication.

The point runs as hereunder :

“Whether the action of the management of Northern Railway in terminating the services of Sh. Munj Behari w.e.f. 1-8-90 is just and fair ? If not to what relief the concerned workman is entitled?”

The claimant has filed statement of claim. In the statement of claim, it has been stated that the concerned workman has raised an Industrial Dispute before the appropriate authority and the workman had given a demand notice with respect to his re-instatement and regularisation of service with the management alongwith complete back wages and consequential benefits.

That the management had neither replied to his notice and thereafter the workman filed a statement of claim before conciliation officer Sh. A.K. Kapoor Asstt. Labour Commissioner (C), New Delhi but due to adamant attitude of the management the conciliation proceedings could not be satisfactorily concluded.

That the workman has been working with full satisfaction of the management and had given no chance of complaint to the management and never has been any charge sheet issued against the workman. That the workman was initially appointed with the management on 19-10-82 and prior to that the workman had worked from 19-11-82 to 5-11-82 and then 6-11-82 to 2-12-82 and thereafter the petitioner worked from 27-7-84 to 15-10-84 and thereafter the workman was appointed on 26-5-90 to 31-5-90 and then 1-6-90 to 30-6-90 and then 1-7-90 to 31-7-90 and during this period the workman absented only on 10-7-90. A copy of the record of service as casual labour is annexed herewith. It is pertinent to mention that the workman was appointed as casual labour against a

permanent post and the nature of the service of the workman is as such which are required on a permanent basis.

That the management is following unfair labour practices by employing the workman and after few days give a break in the service record and then would not re-employee for a considerable period. That various Judgements of various courts including Hon'ble Supreme Court, High Court and Central Administrative Tribunal have held such practice of management to be totally unlawful and discriminatory and also if the work is of permanent nature then to appoint a workman on casual basis is illegal.

That the action of the management is illegal on the face of record, further the management has terminated the services of the workman whereas no enquiry, memorandum or charge sheet has been issued against the workman and thereby the management has terminated the service of workman without complying with the mandatory provisions of the Industrial Disputes Act.

That the management has terminated the service of the workman without following the principle of natural justice and as such juniors to the workman appointed by the management are still on the rolls of the management and some of them have been made permanent also this attitude of the management of not treating the appointment of the workman on permanent basis with a vindictive attitude so that the workman crosses the age limit.

The management has filed written statement. In the written statement, it has been stated that in 1978 Railway Board reviewed the policy regarding casual labours and had decided that the number of men on casual basis already being sizeable enough to meet railway requirement in the field there should normally be no need for fresh intake of candidates. There could only be special situations in limited areas and in that case too intake of fresh casual labours should be resorted to only after obtaining prior approval of the General Manager with the issue of these instructions under PS No. 7716-A the powers of engagement of fresh casual labours with the personal orders of Divl. Supdtt. New DRMs stood with drawn and it was desired to ensure that no fresh casual labours were recruited without obtaining prior approval of General Manager. Thus engagement of casual labour after 3-8-81 by any unauthorised person is bad in law *ab initio* and has no *locus standi*.

As per provisions of Section 2(s) of I.D. Act, 1947, status of applicant can not be termed as workman since he was not a regular employee. Thus when he does not enjoy the status of workman there is no question of any Industrial Dispute. Whatsoever as per Section 2(k) of I.D. Act 1947.

No such notice has been received in this office as no proof thereof has been submitted by the applicant and conclusion in the said case if any is within the discretion of the ALC/NDLS. Since the applicant has not produced any record of casual labour service and station as reported to have been rendered by him and as such no comments can be offered.

No unfair practice is followed by the management as the service of casual labour if so employed is seasonal, intermittent, sporadic, or extends over short periods. Casual labour are not recruited against regular posts or work of regular nature.

As explained above no unlawful and discriminatory practice is held by the management as the nature of job is seasonal, intermittent, sporadic or extends over short periods. It is denied that any pre-termination notice enquiry is to be held in such cases as casual labour does not attract the provisions of I.D. Act.

His case does not come under the principles of natural justice as his employment was of casual nature and not regular. He has no claim for re-engagement. No vindictive attitude is therefore held against him as alleged. It is submitted that as explained above no record of casual labour service or proceedings of ALC/New Delhi have been annexed as such no comments can be offered.

The workman applicant has filed rejoinder. In his rejoinder he has reiterated the averments of his claim. He has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

The workman applicant is absenting from 08-03-2002. The management has been present all along. No affidavit of the workman applicant has been filed. According to the version of the respondent the workman applicant was seasonal and intermittent casual labour. The appointment of Casual Labour is banned. Letters regarding the same has been filed on the record. The workman applicant has not been able to make out his case.

The reference is replied thus :

The action of the management of the Northern Railway in terminating the services of Shri Munj Behari w.e.f. 01-08-1990 is just and fair. The workman applicant is not entitled to get any relief as prayed for.

The Award is given accordingly.

R.N. RAI, Presiding Officer

नई दिल्ली, 23 फरवरी, 2005

का.आ. 1070.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ग्रासिम इंडस्ट्रीज लि. के प्रबंधतांत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या आई.डी. सं. 390/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-02-2005 को प्राप्त हुआ था।

[सं. एल-29012/16/2004-आई आर (विविध)]
बी.एम. डेविड, अवार सचिव

New Delhi, the 23rd February, 2005

S.O. 1070.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.390/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the

Industrial Dispute between the employers in relation to the management of Grasim Industries Ltd. and their workman, which was received by the Central Government on 23-02-2005.

[No. L-29012/16/2004-IR (M)]

B.M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, CHENNAI

Friday, the 29th October, 2004

PRESENT :

K. JAYARAMAN, Presiding Officer

Industrial Dispute No. 390/2004

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Grasim Industries Ltd. Grasim Cement Division (S) and their workman].

BETWEEN :

Sri V. Murugesan : I Party/Petitioner

AND

The Joint President, : II Party/Management
Grasim Industries Ltd.,
Grasim Cement Division(S),
Reddipalayam Post.

APPEARANCE :

For the Workman : M/s. A.P. Peter Gunasekaran &
P. Dharmaraj, Advocates

For the Management : M/s. Meenakshisundaram &
Dwarakanatham, Advocates

AWARD

The Central Government, Ministry of Labour vide Notification Order No. L-29012/5/2004-IR (M) dated 31-03-2004 has referred the following industrial dispute to this Tribunal for adjudication :

“Whether the claim of Shri Murugesan for continuity of service, regularisation with back wages and all benefits against the management of Grasim Industries Ltd., Cement Division (South) Reddipalayam, Ariyalur is legal and justified? If not, to what relief the workmen are entitled to?”

2. After the receipt of the reference, it was taken on file as I.D. No. 390/2004 and notices were issued to both the parties. Even after several notices, the Petitioner has not appeared before this Court. The Respondent appeared through their advocate and filed Statement of Objection.

3. In the statement of objection, the II Party/Management has contended that the I Party/Workman was never an employee of the II Party/Management nor was the II Party/Management his employer. It is learnt that the

I Party was employed as a Helper (unskilled) in various location by one of the contractors of the II Party/Management. Further, the I Party through its union has raised industrial dispute against the contractors of Management for payment of bonus, minimum wages before this Tribunal in August, 2003 and the matter is still pending as I.D. No. 109/2003 and after admitting in that industrial dispute that he was an employee of the contractor, he cannot now be heard to set up a new case that he is an employee of the II Party/Management. Before the minimum wages forum, though the Petitioner has filed an application against the II Party/Management and also contractor seeking to pay 'E' grade wages as per the Cement Wages Settlement 14-8-2000 and obtained the order. The said order was stayed by the High Court in W.P. No. 1613 and 1616 of 2004. Therefore, the Petitioner always considered himself as an employee of the contractor and not as of the II Party/Management and therefore, he cannot now be heard to claim that he is an employee of the II Party/Management. Hence, it prays that the claim may be dismissed with costs.

4. In these circumstances, the point for my consideration is—

"To what relief the Petitioner is entitled?"

Point :

5. Even after several notices, the Petitioner has not appeared before this Court nor filed his Claim Statement. The Respondent in its statement of objection clearly stated that there is no relationship of master and servant between them and Petitioner. Further, they have stated that the Petitioner and other workmen have raised a dispute against the contractors for payment of bonus and minimum wages in I.D. No. 109/2003. Under such circumstances, the Respondent contended that they have admitted in the said applications that they were employees of the contractors and they cannot now turn around and say that they are employees of the II Party/Management.

6. I find much force in the contention of the Respondent because when the Respondent/Management denies the relationship of master and servant between them and Petitioner, it is the bounden duty of the Petitioner to establish that there is a relationship of master and servant and they are entitled to the benefits of Industrial Disputes Act, 1947. In this case, the Petitioner has not appeared before this Court to establish his contention that he was an employee under the II Party/Management and entitled to the benefits of Industrial Disputes Act. Since he has not chosen to appear before this Tribunal to establish his case, I find the Petitioner is not entitled to any relief. No Costs.

7. The reference is disposed of accordingly.

(Dictated to the P. A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 29th October, 2004.)

K. JAYARAMAN, Presiding Officer

नई दिल्ली, 23 फरवरी, 2005

का.आ. 1071.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार कुद्रेमुख और यरन और कं. लिं. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बैंगलोर के पंचाट (संदर्भ संख्या 70/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-02-2005 को प्राप्त हुआ था।

[सं. एल-26011/1/98-आई आर (विविध)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 23rd February, 2005

S.O. 1071.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 70/98) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Kudremukh Iron Ore Co. Ltd. and their workman, which was received by the Central Government on 23-02-2005.

[No. L-26011/1/98-IR M]

B.M. DAVID, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
"SHRAM SADAN"**

**III MAIN, III CROSS, II PHASE, TUMKUR ROAD,
YESHWANTHPUR, BANGALORE-560 022**

Dated 7th February, 2005

PRESENT:

SHRI A. R. SIDDIQUI, Presiding officer

C. R. NO. 70/98

I PARTY

The Branch Secretary,
Kudremukh Mazdoor
Sangh,
B-72, KIOCL Township,
Mangalore

II PARTY
The Manager (Personnel),
Kudremukh Iron Ore
Company Ltd.,
Panambur,
Mangalore-575 010

AWARD

The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute *vide* order. No. L-26011/1/98/1R(M) dated 20th July, 1998 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the management of Kudremukh Iron Ore Company Ltd. in not extending all the benefits of the higher scale to which Shri Vishwanath is placed is justified ? If not to what relief the workman is entitled?"

2. The case made out in the Claim statement, briefly, stated is that the first party had served under the management as Technician Grade-1 for 9 years and was therefore, placed under the next higher grade of Supervisory Scale under the Service Linked Promotion Scheme as per the new promotion policy for Non-Executives w.e.f. 30-9-96 as per the Office Order dated 7-10-96; that as per the above said office order the first party was placed in the Higher Supervisory Scale of Rs. 3375-133-4439-144-5735 w.e.f. 30-9-96 as per Clause 6.4 of above said promotion policy for Non-Executives fixing his salary at Rs. 5159 per month as per the office order dated 2-11-96. Under the above said clause he was granted Dearness Allowance applicable to Supervisory scale but was denied the other benefits attached to the said Supervisory Scale on the ground that the other benefits would be given as applicable to the employees covered under the Standing Orders of the Company. That he was denied other benefits attached to the scale like Conveyance Allowance, Incentive, Leave, Medical etc. for which he was eligible as per the above said clause, therefore, he wrote to the management to extend the above said benefits by writing a letter dated 24-12-96 and the management refused his request by giving reply dated 7-2-1997. The request made by the first party union to the management by letter dated 21-4-97 also went unheeded by the management. Therefore, the first party having no alternative approached the Labour Commissioner seeking conciliation in the matter since the conciliation failed on account of non cooperative attitude of the management, the present reference is made; that the action of the management in denying the first party all the benefits attached to the Higher Scale to which he was promoted was malafide and in contravention of the above said clause 6.4 of the Promotion Policy; that the minutes signed by the management and the union at clause 3 clearly states that stagnation promotion would be as per Clause 6.4 of the said policy, that the benefits of an option between the service rules and the standing orders was given to the seniors of the first party who were given the stagnation promotion. Therefore, denial of those benefits to the first party would amount to discrimination. That the minutes dated 11-7-96 signed by the management with the Kudremukh Employees Union are not binding on the first party. Therefore, the first party requested to pass an award directing the Second Party to extend all the benefits attached to the placement in the higher scale under Clause 6.4 of the Promotion Policy for non-executive and to pay up all arrears of benefits and other consequential benefits with interest at the rate of 18% per annum.

3. The management by filing its Counter Statement while admitting the fact that the first party workman was working as a Technician Grade 1 was placed in the Higher Grade Supervisory Scale under the Service Linked Promotion Scheme as per the new promotion policy for non-executives w.e.f. 13-9-96 after having completed 9 years of service in the lower grade, however, contended that as per the order of the promotion, the workman was granted DA as applicable to Supervisory staff and other benefits as applicable to employees covered under standing orders of the company and with the same designation. It was contended that since the promotion of the workman was

not based on the required qualification and that he was promoted under the service linked promotion scheme, continued to avail all other facilities which were applicable in his previous scale held by him; that the above system of Service Linked Promotion was introduced in the new CDP for non executives which was signed between the then recognized union and the management binding on all the employees who were covered under the settlement. It contended that employees who are promoted to Supervisory Scale under the above said linked promotion Scheme will be extended the benefit of DA applicable for Executives and all other benefits under the Standing Orders Applicable to non Executives. Therefore, the claim made by the first party seeking the benefits attached to the employees (Executives) coming under the service rules is without any basis and in contravention of the aforesaid settlement made between the Union Representatives and the management applicable to the first party as well. In the result the management requested this court to reject the reference.

4. Therefore, in the light of the above, the points of reference need to be determined by this tribunal would be as to whether the management was justified in not extending all the benefits of the higher scale to the first party workman who was placed in the said scale? if so what relief the workman is entitled?

5. During the course of trial, the management examined one witness as MW1 said to be working as Manager(P) and got marked in all three documents at Ex. M1 to M3. His statement in examination chief made on 29-7-99 and in his further examination chief on 26-5-04 reads as under :—

“The Second Party is following three types of promotions :

1. Normal Promotion
2. Extended Scale Promotion
3. Service Linked Promotion.

The first party was promoted from Technician-1 to higher scale of wages under Service Linked Promotion Scheme. Ex. M1 is the promotional policy for Non-executives Under Clause 6.4 a clarification is made as it regards to service linked promotion i.e., marked as Ex. M1 (a). Under Service Linked Promotion scale the number of service to be rendered by an employee is 9 years. Four extended scale of promotion there is different No. of years depending upon the post will be taken into consideration. Ex. M-2 is the minutes of the meeting held between the representatives of the management and Recognized Union where some clarification was made with regard to service linked promotion scheme, in addition to some other issues. Clause 5 in Ex. M2 now marked as Ex. M-2(a) deals with employees promoted to Supervisory scale. When this scale is given the designation will not change.

At the time of Ex. M2 the first party was a member of recognized union. At the time of raising this issue was a member of Kudremukh Mazdoor Sangh. Both the documents will speak that it is service linked promotion scale and not designated promotion.”

Further Examination-in-Chief

“Today we have filed a Xerox copy of document called Note sheet original of which is found in correspondence file brought by me today for purpose of comparison and verification. The Xerox copy is marked as Ex. M-3 and original Correspondence book is given to the witness to bring it on the next date of hearing as counsel for the other side is absent. The workman in this case come under the category of 3rd already stated above.”

6. On the part of the workman the Branch Secretary of the first party union was examined as WW1 and workman examined himself as WW2 getting marked in all 9 documents at Ex. W1 to W9. The statements of WW1 & WW2 in their examination chief relevant for the purpose are that the workman was given promotion reaching stagnation stage of higher scale as per the provisions of Clause 6.4 of the Promotion Policy marked at Ex. M1 and therefore, he was entitled to all the benefits attached to such a higher scale as evident from the above said clause. I would like to refer to the statements of MW1, WW1 and WW2 in their cross examination as and when found relevant and necessary.

7. The counsels for the respective parties have submitted their written argument, Sum and substance of the contentions taken by the Second Party in their Written Statement are to the effect that the stagnation promotion given to the first party workman of Higher Scale as per clause 6.4 of the above said promotion policy does not entitle him the benefits attached to the said scale except the DA and this fact is evident from the minutes of the meeting held between the Union Representatives and the Management as per Ex. M2 and Ex. M3 marked before this tribunal. It was contended that the claims of the first party are opposed to the understanding with the union and the promotion policy of the company and therefore, are liable to be rejected. Whereas, it is the argument for the first party that in order to ascertain as to whether the workman is entitled to the benefits attached to the said higher scale, one has to take into account the very provisions of clause 6.4 of the aforesaid promotion policy and not the so called minutes of the meeting held between the Union Representatives and the Management as per Ex. M2 and M3. Firstly for the reason that they are simply minutes of the meeting held not culminated into any agreement or settlement between the parties and secondly for the reason that there is no agreement as such between the Union Representatives and the management with reference to Clause 6.4 of the Promotion Policy under which, undisputedly, the workman was promoted.

8. After having gone through the records, I find substance in the arguments advanced by the first party. The provisions of Clause 6.4 of the aforesaid Promotion Policy marked before this tribunal at Ex. M1 would read as under :—

“Service Linked Promotion : An employee who has put in at least 9 years in one grade and has not been promoted to the next higher grade, either due to non-availability of vacancy or lack of educational qualification or for any other reason will be considered

for placement in the next available higher grade on the date of completion of qualifying service. The employee will be given the next higher scale subject to suitability assessed by a DPC. The employee will continue to have the designation attached to the lower grade and carry out all duties assigned to him. The employee will be allowed all the benefits attached to the scale wherever employees who are rehabilitated on medical grounds will be considered for service-linked promotion, depending upon the merits of the case. Over all ratings for entire period of 9 years should be GOOD and ABOVE.

Employees who fall short of two years of Service as on 30th April and 30th October in the qualifying period for regular promotion/extended scales of pay in the last year of retirement will be considered for grant of one increment in the last month of retirement.”

9. It is the case of the workman that he has been given promotion to the higher scale as per the above said clause and it is also the case of the management that he has been given promotion to the higher scale as per the above said clause. MW1, management witness in his examination chief as noted above has reiterated the above said fact by stating that Ex. M1 is the promotional policy for the non-executives and under clause 6.4 a clarification is made with regard to service linked promotion marked at Ex. M1(a). Therefore, there being no controversy as to under what provisions of law or the clause of the said Promotion Policy, the workman has been given supervisory scale i.e. higher scale as per clause 6.4. The crux of the matter will be as to whether the workman is entitled to all the benefits attached to the said scale. From the reading of the clause 6.4 it is very much clear that the employee promoted under the said clause will be allowed all the benefits attached to the scale. Of course, it was made clear in the clause that such an employee despite the above said Promotion given will continue to have the designation attached to his lower grade and the must carry out all duties assigned to him. Therefore, we find absolutely no ambiguity in the above said provisions of clause 6.4 of the promotion Policy that a promotee under the above said promotion policy will be allowed all the benefits attached to this scale. It is not in dispute that the workman has not been extended with all the benefits attached to the said scale except the House Rent Allowance. It is the contention of the management that an employee promoted under the said clause will be entitled to benefits on par with the employees covered under the Standing Orders of the Company and not the benefits attached to the Higher Scale to which an employee was promoted. This contention of the management has absolutely no basis and fails to be substantiated by any document much less the documents at Ex. M2 and M3 very much relied upon by the management in support of their contention. First of all Ex. M2 undisputedly, are the minutes of the meeting held on 20-7-96 between the representatives of the union and the management and as argued for the first party the minutes of the said meeting will not take form of any agreement or settlement between the parties contemplated under the law. Moreover, clause 5 of the said minutes once again relied

upon by the management does not take its case any further. What it says is that employees promoted to the Supervisory Scale on stagnation was to be given option for opting under the Standing Orders or Service Rules. It is no where the case of the management that the first party workman has exercised any such option seeking coverage under the Standing Orders. A close reading of the above said minutes of the meeting would disclose that there was some discussion between the parties wherein the union insisted upon the management to keep open option for employees getting stagnation promotion to supervisory scale to be covered under the Standing Orders of Service Rules and to such a demand made by the union, the management took up the stand that no such option will be made available to such of the employees. Therefore, the discussion on the above said fact of giving any option to the employees either to be covered under the Standing Orders or under the Service Rules remained inconclusive as the parties did not come to any agreement on this aspect of the matter. In the result the document at Ex. M2 will be of no assistance to the management to establish its contention that by virtue of the above said document the first party is disentitled to claim the benefits attached to the above said higher scale. Moreover, the above said meeting was held between the Union and the management on 27-7-96 and whereas the promotion policy for non-executives marked before this tribunal as Ex. M1 had taken place on 18-7-96 earlier to the said meeting. If at all it was the intention of the management not to extend the benefits attached to the said higher scale to which the first party was promoted as per Clause 6.4 of the said Promotion Policy then certainly there should have been some reference of the above said Clause 6.4 of the said policy during the discussion made in the meeting held as per Ex. M2. Strangely enough there is absolutely no reference of the said clause much less the benefit to be extended to the promotee under the said clause. As noted above, the minutes of the meeting of Ex. M2 cannot be construed as an agreement or settlement between the parties. Ex. M1 in his cross-examination in no uncertain words has stated that after M2 there was no settlement on the particular issue. Similarly much ice cannot be cut in favour of the management when it takes support of the extract of minutes of the meeting said to have been held between the Union Representatives and the management as on 10-8-93. First of all it is the extract of the meeting held long prior to the promotion policy at Ex. M1 adopted by the management and therefore, there cannot be any question of anything to be discussed between the Union and the management as regards to Clause 6.4 of the said Promotion Policy as under date when the above said meeting was held.

10. As argued by the first party the agenda to be discussed in the said meeting as per the very opening sentence of the note sheet at Ex. M3 produced before this tribunal was with regard to stagnation promotion, the working conditions of service and payment of OT to certain employees etc. In fact the last para of the said note sheet

written under the signature of the Sr. Manager (P) would make it clear that the employees given stagnation promotion not possessing the requisite qualification cannot be brought under the category to be covered under the Standing Orders as in such a case those employees may question their decision leading avoidable complications and litigation. Further as argued for the first party, question of being covered under the service rules or under the Standing Orders has no relevance as far as the implementation of the benefits under Clause 6.4 of the aforesaid promotion policy, particularly, when the management in no uncertain terms admits the fact that first party was given promotion to the higher supervisory scale in accordance with the above said provision of law. As, already noted above, there is nothing in the aforesaid clause to speak to the fact that the promotee under the said clause will not be entitled to the benefits attached to the said higher scale. On the other there is a specific wording in the clause to the effect that such an employee will get all the benefits attached to the said scale. When the above said clause was coded or was given any knowledge of legislation by the management by way of Promotion Policy being very much conscious to note that such a promotee shall continue with the designation attached to his lower grade and shall perform the duties attached to his lower grade despite the promotion then in that case nothing prevented the management to make a further noting to the effect that such a promotee will not be given the benefits attached to the said higher scale on par the executives covered under the service rules. In the result this tribunal has no hesitation in its mind to come to the conclusion that the first party workman is entitled to all the benefits attached to the Higher Supervisory Scale to which he was promoted under Clause 6.4 of the said promotion policy.

11. My next question would be to "what relief the first party is entitled for?" In his Claim Statement the first party at Para 5 said that he was denied other benefits attached to the scale like conveyance allowance, Incentive, leave, Medical etc. for which he was eligible as per Clause 6.4 meant for non-executives under the new promotion policy. Therefore, keeping in view the nature of the benefits not being capable of computation in terms of money, a proper and an appropriate order to be passed at this stage would be to direct the management to extend those benefits to the workman from the date of publication of this award. Hence reference is allowed accordingly and following award is passed.

AWARD

The management is directed to extend all the benefits of higher scale to which the workman was placed under the above said Promotion Policy from the date of publication of this Award.

(Dictated to PA transcribed by her corrected and signed by me on 7th February, 2005)

A.R. SIDDIQUI, Presiding Officer

नई दिल्ली, 23 फरवरी, 2005

का.आ. 1072.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैं पाइराईट्स फोस्फेट्स एंड केमिकल्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण धनबाद-1 के पंचाट (संदर्भ संख्या 31/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-02-2005 को प्राप्त हुआ था।

[सं. एल-29011/44/99-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 23rd February, 2005

S.O. 1072.—In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 31/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad No. 1 as shown in the annexure in the Industrial Dispute between the employers in relation to the management of M/s. Pyrites Phosphates & Chemicals and their workman, which was received by the Central Government on 22-02-2005.

[No. L-29011/44/99-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference U/s. 10(1)(d)(2A) of
I.D. Act, 1947

Reference No. 31 of 2000

PARTIES: Employers in relation to the management of Pyrites Phosphates & Chemicals Ltd.

AND

Their Workmen.

PRESENT: Shri S. Prasad, Presiding Officer

APPEARANCES:

For the Employers : Shri G. Prasad, Advocate

For the Workmen/Union : None.

State : Bihar Industry : Mine.

Dated, the 10th February, 2005

AWARD

By Order No. L-29011/44/99/IR(M) dated 12-1-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of M/s. Pyrites Phosphates & Chemicals Ltd., Amjhore, Rohtas, in terminating the services of S/Shri Shiv Pujan Singh and Bhim Singh is justified? If not, to what relief the workmen are entitled?”

2. The management has filed a petition that M/s. Pyrites, Phosphates and Chemicals Ltd. was a Government Company and the Central Government is the appropriate Government as defined U/s 25(b)(i) of the Industrial Disputes Act, 1947. The Central Government by Notification no. 19067/3/97-FCA-II dated 16-6-2003 have closed the industry i.e. Pyrites, Phosphates and Chemicals Ltd. permanently w.e.f. 28-6-2003 under the provisions of the Sick Industrial Companies (Special Provision) Act, 1986. This reference relates to regularisation of contractor's workmen. Since the industry has been closed permanently and all the employees have opted for Voluntary Retirement Scheme on package being given to them and since there is no scope for further employment in the said industry, the question of regularisation of the contractor's workmen does not arise.

3. Accordingly, I render a 'No Dispute' Award in the present reference case.

S. PRASAD, Presiding Officer.

नई दिल्ली, 23 फरवरी, 2005

का.आ. 1073.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैं पाइराईट्स फोस्फेट्स एंड केमिकल्स लिं. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण धनबाद-1 के पंचाट (संदर्भ संख्या 26/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-02-2005 को प्राप्त हुआ था।

[सं. एल-29011/42/99-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 23rd February, 2005

S.O. 1073.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 26/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad No. 1 as shown in the annexure in the Industrial Dispute between the employers in relation to the management of M/s. Pyrites Phosphates & Chemicals Ltd. and their workman, which was received by the Central Government on 23-02-2005.

[No. L-29011/42/99-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference U/s. 10(1)(d)(2A) of
I.D. Act, 1947

Reference No. 26 of 2000

PARTIES: Employers in relation to the management of Pyrites Phosphates & Chemicals Ltd.

AND

Their Workmen.

PRESENT:

SHRI S. PRASAD, Presiding Officer

APPEARANCES:

For the Employee : Shri G. Prasad, Advocate

For the Workmen/Union : None

State : Bihar Industry : Mine

Dated, the 10th February, 2005

AWARD

By Order No. L-29011/42/99/IR(M) dated 24/29-12-1999 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

"Whether the action of the management of Pyrites Phosphates & Chemicals Ltd., Amjhore, in not regularising the services of 73 workers engaged in perennial nature of job is justified? If not, to what relief the workmen are entitled to?"

"Whether the action of the management of Pyrites Phosphates & Chemicals Ltd., Amjhore, in not providing medical facility, casual leave, earned leave etc. to the permanent employee is justified? If not, to what relief the workmen are entitled?"

2. The management has filed a petition that M/s. Pyrites, Phosphates and Chemicals Ltd. was a Government Company and the Central Government is the appropriate Government as defined U/s 25(b)(i) of the Industrial Disputes Act, 1947. The Central Government by Notification No. 19067/3/97-PCA-II dated 16-6-2003 under the provisions of the Sick Industrial Companies (Special Provision) Act, 1982.

This reference relates to regularisation of contractor's workmen. Since the industry has been closed permanently and all the employees have opted for Voluntary Retirement Scheme or package being given to them and since there is no scope for further employment in the said industry, the question of regularisation of the contractor's workmen does not arise.

3. Accordingly, I render a 'No Dispute' Award in the present reference case.

S. PRASAD, Presiding Officer.

नई दिल्ली, 23 फाल्गुन, 2005

का.आ. 1074.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में ओद्योगिक अधिकरण जयपुर के पंचाट (संदर्भ संख्या 32/88) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-02-2005 को प्राप्त हुआ था।

[सं. पल-12012/552/87-डी-II(ए)]

सी. गंगाधरप, अवर सचिव

New Delhi, the 23rd February, 2005

S.O. 1074.—In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 32/88)

of the Industrial Tribunal Jaipur as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Bank of India and their workmen, which was received by the Central Government on 22-02-2005.

[No. L-12012/552/87-D-II (A)]

C. GANGADHARAN, Under Secy.

अनुबंध

केन्द्रीय ओद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 32/88

रेफरेंस : केन्द्रीय सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश
क्र. पल. 12012/552/87-डी. II(ए) दिनांक 13 मई, 1988

श्री राम द्वाल मीणा द्वारा जनरल सैकेटरी, बैंक ऑफ इंडिया एम्प्लाईज़ यूनियन, द्वारा बैंक ऑफ इंडिया, चौधरी होटल बिल्डिंग, एम.आई.रोड, जयपुर।प्रार्थी

बनाम

रीजनल मैनेजर, बैंक ऑफ इंडिया, सरोजनी मार्ग,
सी-स्कीम, जयपुरप्रार्थी

उपस्थित

पीठासीन अधिकारी : श्री पी. एल. हिस्सारिया,
आर.एच. जे. एस.

प्रार्थी की ओर से : श्री सुरेश कश्यप

अप्रार्थी की ओर से : श्री पी. एल. अग्रवाल एवं
श्री राजेश जैन

दिनांक अवार्ड : 10 जनवरी, 2005

अवार्ड

1. केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा निम्न विवाद इस अधिकरण को अधिनिर्णयार्थ प्रेषित किया गया है :

"क्या बैंक ऑफ इंडिया के प्रबन्धतात्र को श्री आर.डी. मीणा की संचयी प्रभाव से सात बेतन बढ़ियां सेबने की कार्यवाही न्यायोचित है? यदि नहीं, तो कर्मकार किस अनुतोष का हकदार है?"

2. प्रार्थी यूनियन की ओर से रेफरेंस में वाट पत्र पेश किये गये हैं जिसके अनुसार श्रमिक राम द्वाल मीणा प्रार्थी यूनियन, जो एक सजिस्टर्ड यूनियन है, का सक्रिय सदस्य है। श्रमिक को विपक्षी बैंक की अंजमेर शाखा में 20-6-77 को बलर्क-कम-टाईपिस्ट के पद पर नियुक्त किया गया था और उसके बाद से यह भेहनत ईमानदारी से कार्य करता रहा। उसके विरुद्ध कोई शिकायत नहीं थी। उसे कार्य के लिए प्रशंसा पत्र आदि भी दिये गये हैं। वर्ष 1982 में उसे क्षम रोग हो गया जिससे वह मुक्त नहीं हो पाया और उसका इलाज चल रहा था, उसकी श्रीमारी का उसके सभी कर्मचारियों के पता चलने पर के लोग उससे ज्ञान करने लगे और कर्मचारियों तथा अधिकारियों ने संस्कृति विद्यालय कर श्रमिक को 32 आरोप लगाते हुए दिनांक 12-2-83 को एक आरोप-पत्र नितान्त सूता दिया और विपक्षी ने इस आरोप-पत्र पर जांच कार्यवाही शुरू कर दी। श्रमिक को जांच अधिकारी द्वारा जांच में भाग लेने का पूरा मौका

नहीं दिया गया और जल्दबाजी में जांच पूरी कर बैंक के हितबद्ध गवाहान के बयान लेते हुए जांच अधिकारी ने बिना आरोप सिद्ध हुए ही श्रमिक के विरुद्ध आरोपों को साबित होना मानते हुए अपनी रिपोर्ट प्रस्तुत कर दी और उसे कारण बताओ नोटिस जारी किया गया जिस नोटिस के जवाब में उस पर दबाव डालकर आरोपों को स्वीकार करा लिया और उसकी 8 वेतन वृद्धियां संचयी प्रभाव से रोक दी गई। श्रमिक ने इस दण्डादेश दिनांक 24-12-83 के विरुद्ध अपील प्रस्तुत की जिसमें सुनवाई के पश्चात् उसकी सात वार्षिक वेतन वृद्धियां संचयी प्रभाव से रोकने का आदेश पारित किया गया जो आदेश पूर्णतया अनुचित व अवैध है। इसलिए अनुशासनिक अधिकारी का दण्डादेश दिनांक 24-12-83 व अपील अधिकारी का आदेश दिनांक 8-3-84 निरस्त किये जायें और श्रमिक को समस्त वेतन वृद्धियों का नियमित लाभ दिलाया जाये।

3. विपक्षी बैंक ने इस क्लेम का जवाब पेश किया है जिसमें प्रारंभिक आपत्ति ली गई है कि श्रमिक को 1-9-88 से प्रबन्धक पद पर पदोन्नति दी गई है जो उसने स्वीकार कर ली इसलिए वह श्रमिक की परिभाषा में नहीं आता और श्रमिक नहीं होने के कारण उसके द्वारा रेफरेंस में की गई कार्यवाही व प्रस्तुत किया गया क्लेम चलने योग्य नहीं है। श्रमिक के विरुद्ध 32 आरोप लगाये गये हैं जिसमें गंभीर आरोप होते हुए भी उसको मात्र 7 वेतन वृद्धियां रोकने का ही दण्ड दिया गया है। उसे सेवा से पृथक् और उनमोचित नहीं किया गया। इसलिए औद्योगिक विवाद पक्षकारों के मध्य लंबित नहीं है और इस कारण भी श्रमिक का क्लेम खारिज किये जाने योग्य है।

4. गुणवागुण पर अप्रार्थी ने जवाब दिया है कि प्रार्थी द्वारा प्रस्तुत क्लेम में समस्त वर्णित तथ्य असंगत हैं जिनको इन्कार किया गया है, श्रमिक को 12-2-83 को आरोप-पत्र दिया गया था जिसमें 32 गंभीर आरोप लगाये गये थे। आरोप-पत्र दिये जाने की बाबत उसने काफी अवसर देने के बावजूद जांच कार्यवाही में भाग नहीं लिया और जांच अधिकारी को जांच में भाग लेने से 'पूर्णतः इन्कार कर दिया इसलिए जांच अधिकारी द्वारा श्रमिक के विरुद्ध एकपक्षीय कार्यवाही की गई। उसे यद्यपि सुनवाई का पूरा अवसर दिया गया था परन्तु वह स्वयं ही उपस्थित नहीं हुआ और उसने जांच कार्यवाही में भाग लेने से इन्कार कर दिया, इसलिए यह कहना नितान्त गलत है कि उसे सुनवाई का अवसर नहीं दिया गया हो। जांच अधिकारी ने आरोपों पर समुचित गवाह लेकर पूरी कार्यवाही का अपनी जांच रिपोर्ट प्रस्तुत की जिस जांच रिपोर्ट पर श्रमिक को सेवा से निष्कासित करने के लिए कारण बताओ नोटिस दिया गया, नोटिस की तारीख पर श्रमिक अपने बचाव प्रतिनिधि के साथ अनुशासनिक प्राधिकारी के समक्ष उपस्थित हुआ। उसने स्वेच्छा से समस्त आरोपों को स्वीकृति पत्र लिखकर दिया और भविष्य में अपने आचरण में सुधार करने तथा गलत कार्यवाही नहीं करने का आशवासन दिया जिस पर उसके विरुद्ध 32 गंभीर आरोप साबित होते हुए भी अत्यधिक नर्मी का रुख अपनाते हुए अनुशासनिक अधिकारी ने आदेश दिनांक 24-12-83 के द्वारा मात्र 8 वेतन वृद्धियां संचयी प्रभाव से रोकी जिस आदेश के विरुद्ध श्रमिक द्वारा अपील की गई और अपील अधिकारी ने अपने आदेश दिनांक 8-3-84 के द्वारा 8 के स्थान पर 7 वेतन वृद्धियां संचयी प्रभाव से रोकने का आदेश पारित किया जो पूर्णतया विधि के अनुसार है। प्रार्थी का क्लेम खारिज किये जाने की प्रार्थना की गई है।

5. दोनों पक्षों को धरेलू जांच की शुद्धता की बाबत सुना जाकर इस अधिकारण द्वारा आदेश दिनांक 27-3-2001 के द्वारा श्रमिक के विरुद्ध विपक्षी के द्वारा की गई धरेलू जांच को पूर्णतया विधि अनुसार व प्राकृतिक न्याय के सिद्धान्तों की पालना करते हुए किया जाना मानकर शुद्ध एवं सही होना घोषित किया गया है।

6. दोनों पक्षों के विद्वान प्रतिनिधिगण को गुणवागुण पर अंतिम बहस सुनी गई, पत्रावली का ध्यानपूर्वक अवलोकन किया गया।

7. चूंकि श्रमिक के सेवा पृथक्करण अथवा सेवा मुक्ति के संबंध में कोई रैफरेंस नहीं है, इसलिए इस मामले में धारा 11-ए औद्योगिक विवाद अधिनियम के प्रबन्धान लागू नहीं होते हैं। धरेलू जांच को पूर्णरूपेण शुद्ध व उचित इस न्यायाधिकरण के आदेश दिनांक 27-3-01 द्वारा घोषित किया गया है। जो दण्डादेश पारित किया गया है वह विधिक साक्ष्य पर आधारित है। जांच अधिकारी की एक पक्षीय कार्यवाही है श्रमिक की ओर से किसी प्रकार की साक्ष्य नहीं है, ऐसी सूत में इस दण्डादेश में हस्तक्षेप किये जाने का कोई आधार मेरे समक्ष नहीं है और प्रबन्धक विपक्षी बैंक द्वारा श्रमिक राम दयाल मीणा के विरुद्ध 7 वेतन वृद्धियां संचयी प्रभाव से रोके जाने का दण्डादेश न्यायोचित है और प्रकरण में निम्न आशय का पंचाट पारित किया जाता है।

“बैंक ऑफ इंडिया के प्रबन्धतंत्र की श्री आर. डी. मीणा को संचयी प्रभाव से सात वेतन वृद्धियां रोकने की कार्यवाही न्यायोचित है। श्रमिक कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।”

8. अवार्ड आज दिनांक 10-1-2005 को खुले न्यायालय में लिखाया जाकर सुनाया गया। अवार्ड की प्रति केन्द्र सरकार को प्रकाशनार्थ नियमानुसार भेजी जावें।

पी. एल. हिस्सारिया, पीठासीन अधिकारी

नई दिल्ली, 24 फरवरी, 2005

का.आ. 1075.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय औद्योगिक अधिकरण जयपुर के पंचाट (संदर्भ संच्छा —) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-2-2005 को प्राप्त हुआ था।

[सं. एल-40012/111/94/आई आर (डी यू)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 24th February, 2005

S.O. 1075.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Industrial Tribunal Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Deptt. of Telecom and their workman, which was received by the Central Government on 24-2-2005.

[No. L-40012/111/94-IR (DU)]

KULDIP RAI VERMA, Desk Officer

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 67/95

रैफरैंस : केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश

क्रमांक एल. 40012/111/94-आई.आर. (डी.यू.) दिनांक

30-10-1995

नाथूलाल सैन पुत्र श्री राम द्वाल सैन, मु. योस्ट-बिलादरपुर
रहसील-शाहपुरा, जिला-जयपुर द्वारा श्री बी.एम. बागड़ा।
.....प्रार्थी

बनाम

महाप्रबन्धक, दूर संचार विभाग, जिला दूरसंचार कार्यालय
मिर्जा इस्माईल रोड, जयपुर

.....अप्रार्थी

उपस्थित

पीठासीन अधिकारी : श्री पी.एल. हिस्सारिया,
आर.एच.जे.एस.

प्रार्थी की ओर से : श्री बी.एम. बागड़ा
अप्रार्थी की ओर से : कोई उपस्थित नहीं

दिनांक अवार्ड : 3-1-2005

अवार्ड

1. केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा निम्न विवाद
इस अधिकरण को अधिनिर्णयार्थ प्रेषित किया गया है:

"क्या जनरल मैनेजर (टेली कम्यूनिकेशन) जयपुर के द्वारा श्रमिक श्री नाथूलाल सैन पुत्र श्री रामदयाल सैन को दिनांक 30-12-1976 को सेवा से पृथक कर दिया जाना उचित एवं वैध है? यदि नहीं, तो श्रमिक किस गहत का अधिकारी है?"

2. प्रार्थी ने विवाद की पुष्टि में अपना वाद पेश किया है जिसके अनुसार प्रार्थी ने एस.डी.ओ. फोन जयपुर के यहां 1-2-73 से लाइनमैन के साथ हैल्पर का काम करना आरंभ किया और 30-12-76 तक ईमानदारी से कार्य करता रहा। दिनांक 31-12-76 को पुलिस थाना आमेर के यहां नियोजक ने मिथ्या तथ्यों पर आधारित एक रिपोर्ट दर्ज कराई जिसके आधार पर उसके विरुद्ध एक मुकदमा दर्ज किया गया। उक्त मुकदमे के निर्णय दिनांक 15-1-92 में उसे दोषमुक्त किया गया और निर्णय की प्रति प्राप्त कर वह नियोजक के यहां दिनांक 15-2-92 को पहुंचा तो उसे इच्छी पर नहीं लिया गया और बताया कि 30-12-76 से ही उसे सेवा से अलग कर दिया गया है। इस पर प्रार्थी ने श्रम आयुक्त (केन्द्रीय) के यहां प्रार्थना पत्र पेश किया किन्तु समझौता नहीं हो सकने के कारण केन्द्र सरकार द्वारा यह विवाद इस अधिकरण को प्रेषित किया गया है। प्रार्थी का कथन है कि उसने अपनी सेवा अवधि 1-2-73 से 30-12-76 तक निरन्तर कार्य किया है और प्रत्येक वर्ष में 240 दिन से अधिक कार्य किया है किन्तु सेवा पृथक करने से पहले नियोजक द्वारा धारा 25-एफ औद्योगिक विवाद अधिनियम, 1947 (जिससे बाद में अधिनियम संबोधित किया जा रहा है) के प्रावधानों की पालना नहीं की अर्थात् उसे एक माह का नोटिस, अथवा उसके एवजा में एक माह का बेतन एवं छंटनी मुआवजा नहीं दिया अतः उसकी सेवा मुक्ति अवैध है। प्रार्थी के विरुद्ध जो रिपोर्ट दर्ज कराई गई वह दुराचरण है जिसके लिए उसे कोई आरोप पत्र नहीं दिया, न ही कोई जांच कराई और उस शिकायत के संबंध में जो मुकदमा दायर हुआ उसमें प्रार्थी को बरी कर दिया गया, अतः उसकी सेवा मुक्ति अवैध व अनुचित है। प्रार्थी को पुनः सेवा में समस्त बेतन व अन्य लाभ सहित बहाल किये जाने का अवार्ड पारित करने की प्रार्थना प्रार्थी ने की है।

3. अप्रार्थी की ओर से वाद पत्र का जवाब दाया पेश कर ग्रांप्रिक आपति ली गई है कि दूर संचार विभाग उद्योग की परिभाषा में नहीं आता है, अतः क्लेम खारिज किया जावे। गुणावगुण पर अप्रार्थी का जवाब है

कि प्रार्थी के विरुद्ध चोरी का आपराधिक मामला दर्ज होने के बाद उसे सेवा मुक्त किया गया। न्यायालय ने प्रार्थी को संदेह का लाभ देकर बरी किया, फैजदारी मुकदमा दर्ज होने के पश्चात् प्रार्थी को सेवा से पृथक किया गया था और 14 वर्ष पश्चात् प्रार्थी को वापस सेवा में लेना न्यायोचित नहीं है। औद्योगिक विवाद अधिनियम के प्रावधान विपक्षी संस्थान पर लागू नहीं होते अतः क्लेम प्रार्थी का खारिज किया जावे।

4. प्रार्थी की ओर से नाथूलाल सैन स्वयं प्रार्थी का शपथ पत्र पेश हुआ है जिससे अप्रार्थी के विद्वान प्रतिनिधि ने जिरह की है। प्रार्थी ने प्रदर्श डब्ल्यू-1 लगायत डब्ल्यू-5 दस्तावेज प्रदर्शित कराये हैं। अप्रार्थी ने अपनी साक्ष्य में श्री बी.एम. बर्मा, उप मण्डल अधियन्ता का शपथ पत्र पेश किया है परन्तु उक्त साक्षी को जिरह के लिए कभी भी ऐसे गहरी किया गया इसलिए 16-7-2002 को अप्रार्थी की साक्ष्य नहीं आने से व अप्रार्थी की ओर से कोई उपस्थित नहीं होने से उनकी साक्ष्य बंद की जाकर एकपक्षीय कार्यवाही की गई।

5. प्रार्थी के विद्वान प्रतिनिधि की बहस सुनी, पत्रावली का ध्यानपूर्वक अवलोकन किया।

6. अप्रार्थी के जवाब के अनुसार उनकी प्रारंभिक आपति यह रही है कि दूर संचार विभाग उद्योग की परिभाषा में नहीं आता है अतः प्रार्थी के क्लेम को खारिज किया जावे। परन्तु इस संबंध में जनरल मैनेजर टेलीकॉम बनाम ए. श्रीनिवासन राघव व अन्य 1998 एस.सी.सी. (एल.एप्ड एस.) 6 में माननीय सचिवाच्च न्यायालय ने यह स्पष्ट रूप से प्रतिपादित किया है कि टेलीकॉम विभाग उद्योग की परिभाषा में आता है, इसलिए विपक्षी के जवाब में लौ गई ग्रांप्रिक आपति माननीय उच्चतम न्यायालय के उक्त प्रोट्रॉन को देखते हुए अस्वीकार की जाती है।

7. अप्रार्थी ने अपने जवाब में अन्य तथ्यों को स्वीकार करते हुए यह अंकित किया है कि प्रार्थी ने स्वयं काम पर आना बंद कर दिया इसलिए उसे सेवा से निकाल दिया गया और 14 वर्ष पश्चात् उसे सेवा में लिये जाने का कोई औचित्य नहीं था। परन्तु अपने इस तथ्य के समर्थन में अप्रार्थी की कोई साक्ष्य नहीं है। इसके विपरीत प्रार्थी ने अपने क्लेम की पुष्टि में स्वयं का शपथ पत्र पेश किया है। जिसमें उसने स्पष्ट तौर पर कहा है कि उसने विपक्षी के यहां 1-2-73 से दैनिक बेतन पर लाइनमैन का काम शुरू किया और 29-12-76 तक उससे लगातार लाइनमैन का कार्य लिया गया। 30-12-76 को उसे काम पर लैने से मना कर दिया। उसके विरुद्ध चोरी के आरोप की प्रथम सूचना 1/77 दर्ज कराई गई जिसमें उसके विरुद्ध चालान पेश हुआ परन्तु माननीय न्यायालय ने अपने निर्णय दिनांक 15-1-92 के द्वारा प्रार्थी को धारा 379 तथा 411 भा.द. सं. से दोष मुक्त कर दिया जिस निर्णय की प्रति प्रदर्श डब्ल्यू-1 प्रार्थी ने पेश की है। उसने अप्रार्थी को नोटिस प्रदर्श डब्ल्यू-2 भेजा परन्तु अप्रार्थी ने प्रार्थी को काम पर नहीं लिया। उसने 1-2-73 से 30-12-76 तक 240 दिन से अधिक कार्य किया है जो हाजिरी रिपोर्ट का रिकार्ड प्रदर्श डब्ल्यू-3 व डब्ल्यू-4 उसने पेश किया है। काम पर नहीं लैने पर उसने समझौता अधिकारी के समक्ष कार्यवाही की जहां बार्ता विफल रही। समझौता अधिकारी की रिपोर्ट डब्ल्यू-4 है। प्रार्थी ने जिरह में इसके विपरीत कुछ नहीं कहा है। प्रार्थी की साक्ष्य से यह पूर्णतया साबित है कि प्रार्थी ने अप्रार्थी दूरसंचार विभाग के यहां लाइनमैन के तौर पर 240 दिन से अधिक कार्य किया है तथा उसे कोई नोटिस दिये विना व नोटिस बेतन दिये बिना ही कार्य पर लैने से मना कर दिया और मौखिक तौर पर सेवा से पृथक कर दिया। अप्रार्थी को इस प्रकार सेवा पृथक करने का कृत्य दिनांक 30-12-76 उचित एवं वैध नहीं है अतः प्रार्थी पुनः नियोजन पाने का अधिकारी है और प्रकरण में निम्न अवार्ड पारित किया जाता है :

“जनरल मैनेजर, (टेलीकम्प्यूटरेशन) जयपुर द्वारा श्रमिक श्री नाथूलाल सैन को दिनांक 30-12-1976 को सेवा पुरुष करने की कार्यवाही अनुचित व अवैध है। अतः प्रार्थी पुनः सेवा में बहाल होने का व अपने पिछले वेतन का 25 प्रतिशत प्राप्त करने का अधिकारी है। प्रार्थी की सेवा को निरन्तरता कायम रखी जाती है।”

8. अवार्ड आज दिनांक 3-1-2005 के खुले न्यायालय में लिखा जाकर सुनाया गया जो केन्द्र सरकार को प्रकाशनार्थी नियमानुसार भेजा जावे।

पी. एल. हिस्सारिया, न्यायाधीश

नई दिल्ली, 24 फरवरी, 2005

का.आ. 1076.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार चीफ पोस्ट मास्टर जनरल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय औद्योगिक अधिकारण, जयपुर के पंचाट (संदर्भ संख्या 3/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-02-2005 को प्राप्त हुआ था।

[सं. एल-40012/297/95-आई आर (डीयू)]

कुलदीप राय चर्मा, डैस्क अधिकारी

New Delhi, the 24th February, 2005

S.O. 1076.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Industrial Tribunal, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Chief Post Master General and their workman, which was received by the Central Government on 24-02-2005.

[No. L-40012/297/95-IR (DU)]

KULDIP RAI VERMA, Desk Officer

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकारण, जयपुर

केस नं. सी.आई.टी. 3/98

विविध प्रार्थना पत्र सं. 4/2004

शंकर लाल शर्मा

.....प्रार्थी

बनाम

.....अप्रार्थी

पोस्ट मास्टर जनरल

प्रार्थना पत्र बाबत निरस्त करने एकपक्षीय आवार्ड

दिनांक 19-7-2004

उपस्थित

पीठासीन अधिकारी : श्री पी.एल. हिस्सारिया, आर.एच.जे.एस.

प्रार्थी को ओर से : श्री घनश्याम दास गुप्ता

अप्रार्थी की ओर से : श्री तेज प्रकाश शर्मा

दिनांक आदेश : 17-1-2005

आदेश

1. अप्रार्थी की ओर से दिनांक 23-7-2004 को यह प्रार्थना पत्र उनके प्रतिनिधि श्री तेज प्रकाश शर्मा द्वारा इन तथ्यों के साथ पेश किया गया कि इस उन्नाम के मूल रैफॉर्म सं. 3/98 में पेशी 10-6-2004 को नियत थी। अप्रार्थी के प्रतिनिधि 10-6-2004 को अधिकारण में उपस्थित आये और रेजिस्टर देखने से ज्ञात हुआ कि उसमें अग्रिम पेशी अंकित नहीं की गई है। तथा दूसरे रोजा रीडर से पेशी का मालूम किया जिन्होंने 18-8-04 बताई। 22-7-04 को उन्हें ज्ञात हुआ कि रीडर ने तिथि गलत बता दी थी जावाब में तिथि 19-7-04 थी और 19-7-04 को एकपक्षीय अवार्ड कर दिया गया। अप्रार्थी के प्रतिनिधि का अनुपस्थित रहने का कारण गलत तिथि अंकित किया जाना है जो सद्भावी है और माफ किये जाने योग्य हैं। इसलिए एकपक्षीय अवार्ड को निरस्त कर अप्रार्थी को सुनवाई का अवसर दिया जावे।

2. प्रार्थना पत्र दर्ज रजिस्टर किया जाकर प्रार्थी को नोटिस दिया गया, प्रार्थी की ओर से श्री घनश्याम गुप्ता प्रतिनिधि उपस्थित आये जिन्होंने प्रार्थना पत्र का जावाब पेश किया। जावाब के अनुसार अधिकारण द्वारा 19-7-2004 को पारित अवार्ड एकपक्षीय नहीं है, दोनों पक्षों के गवाह के बयान हुए हैं, दोनों पक्षों के बयान एवं दस्तावेजों के अध्ययन करने के पश्चात् गुणावगुण के आधार पर अवार्ड पारित किया गया है। उनका यह भी जावाब है कि अप्रार्थी द्वारा प्रसुत प्रार्थना पत्र में तथ्य पूर्णतः गलत अंकित किये गये हैं। दिनांक 10-6-2004 को अप्रार्थी के विद्वान प्रतिनिधि के नहीं आने पर खुले न्यायालय में 1.00 बजे के लगभग बहस सुनी गई थी और अप्रार्थी के प्रतिनिधि का यह कथन कि 10-6-04 को वे उपस्थित थे, 18-8-2004 की पेशी बताई गई, यह तथ्य भी गलत है क्योंकि किसी भी रीडर को पेशी याद रहना संभव नहीं है। अप्रार्थी के विद्वान प्रतिनिधि कभी भी समय पर उपस्थित नहीं हुए और पूर्व में भी अनेकों बार उनके अनुपस्थित रहने के कारण एकपक्षीय कार्यवाही के आदेश दिये गये हैं। विपक्षी के निरस्तर अनुपस्थित रहने के कारण 10-2-04 को यह आदेश दिया गया था कि विपक्षी के नहीं आने पर 10-6-04 को बहस सुनी जाएगी और इस दिन प्रार्थी की बहस सुनी जाकर 19-7-04 को अवार्ड पारित किया गया है जो दोनों पक्षों की साक्ष्य के आधार पर किया गया है जिसे एकपक्षीय अवार्ड नहीं कहा जा सकता। इसलिए प्रार्थना पत्र अप्रार्थी को खारिज किया जाये।

3. मैंने दोनों पक्षों के विद्वान प्रतिनिधिगण की बहस इस प्रार्थना पत्र पर सुनी, पत्रावली का ध्यानपूर्वक अवलोकन किया।

4. पत्रावली के अवलोकन से स्पष्ट है कि दिनांक 10-2-04 को अप्रार्थी के प्रतिनिधि उपस्थित नहीं थे जिस पर एकपक्षीय बहस के लिए 6-4-04 को पेशी दी गई, 6-4-04 को भी विपक्षी के प्रतिनिधि उपस्थित नहीं थे तक 10-6-04 की पेशी दी गई और 10-6-04 को भी विपक्षी के लिए प्रतिनिधि उपस्थित नहीं होने पर प्रार्थी प्रतिनिधि की बहस सुनी गई और 19-7-04 को अवार्ड पारित किया गया जो दोनों पक्षों की साक्ष्य के पूर्ण अवलोकन एवं अध्ययन के पश्चात् गुणावगुण पर पारित किया गया है। अप्रार्थी के प्रतिनिधि ने 19-7-04 की अपनी अनुपस्थित का कारण पेशी का गलत अंकित होना बताया है लेकिन 19-7-04 को तो मात्र अवार्ड सुनाया गया है, बहस 10-6-04 को सुनी गई है जिस दिन की अनुपस्थित का कोई कारण नहीं बताया गया है बल्कि उस दिन स्वयं को उपस्थित होना बताया है जो पूर्णतया गलत है। यदि अप्रार्थी के प्रतिनिधि 10-6-04 को उपस्थित होते तो निश्चित तौर पर बहस में भाग लेते, वे तो इससे पूर्व 6-4-04 को भी उपस्थित नहीं थे। इसलिए अनुपस्थित का कोई कारण नहीं बताया गया है। अप्रार्थी के

प्रभारी अधिकारी के न तो द्वार्थना पत्र में कही हस्ताक्षर है, न प्रभारी अधिकारी की अनुस्थिति का कोई कारण है, पात्र प्रतिनिधि की अनुस्थिति का कारण है वह भी गलत है। ऐसी सूत्र में अप्रार्थी का यह प्रार्थना पत्र खारिज किये जाने योग्य है।

5. अतः प्रार्थना पत्र अप्रार्थी दिनांक 23-7-04 बाबत अपास्त किये जाने अवार्द्ध दिनांक 19-7-04 खारिज किया जाता है।

6. ओदास आज दिनांक 17-1-2005 को सूत्रे न्यायालय में लिखाया जाकर सुनाया गया।

पी.एस. हिस्तारिया, सीठासीन अधिकारी
नई दिल्ली, 24 फरवरी, 2005

का.आ. 1077.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार साताद्दन कमांड स्टेशनरी डिपो के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकारण, पुत्रों के पंचाट की प्रकाशित करती है, जो केन्द्रीय सरकार की 24-02-2005 को प्राप्त हुआ था।

[सं. एल-14011/1/93-आई आर (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 24th February, 2005

S.O. 1077.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Pune as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Southern Command Stationery Depot and their workmen, which was received by the Central Government on 24-02-2005.

[No. L-14011/1/93-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE SHRI S. M. KOLHE, INDUSTRIAL TRIBUNAL, PUNE

Reference No. 22 of 1994

BETWEEN:

Southern Command Stationery Depot,
Pune

—First Party

AND

Their Workmen

—Second Party

In the matter of : Hours of work and service conditions.

Advocates

: Shri S. B. Deshpande,
for the First Party.

Shri S. R. Sarkar,
for the Second Party.

AWARD

3rd January, 2005

1. This reference is pending for last more than 10 years. It is revealed from the record that the maintainability of the reference in this Court, was challenged. However, this Court held that the reference was maintainable.

Aggrieved party challenged the said order by filing writ petition in Hon'ble Bombay High Court. Writ Petition was disposed of and the order of this Court was upheld. Thereafter, notices are issued to both the parties from time to time to appear in this matter and to proceed further. It emerges from the record that several attempts are made to serve the notice, particularly on second party union. Though, the notice is served on the first party, there is no appearance of the first party in this proceeding. By way of letter, first party informed that second party Kamgar Sangh is no more in existence and there are no members of second party Kamgar Sangh, who are the employees of the first party. It is also informed that the name of second party Kamgar Sangh is changed and it is styled as National Defence Employees Union. Several attempts are made to serve the notice on General Secretary Mr. Pillai of the said union. It is a matter of record that the second party union failed to appear in this matter. Considering absence of both parties in this proceeding. I am of the opinion that parties have lost the interest in the matter. In such circumstances, the demands as made in this reference, are not substantiated and cannot be granted. So, I dispose of the reference and pass the following order.

ORDER

- (1) Reference is disposed of.
- (2) Demands are not substantiated and not granted.
- (3) Award be prepared accordingly.

Pune

DATE : 3-1-2005. S. M. KOLHE, Industrial Tribunal

नई दिल्ली, 24 फरवरी, 2005

का. आ. 1078.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार खदान फाईलकरे, बीकानेर के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकारण, जयपुर के पंचाट (संदर्भ संख्या सी. आई. टी. - 64/89) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-2-2005 को प्राप्त हुआ था।

[सं. एल-29025/16/2005-आई आर (विविच)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 24th February, 2005

S.O. 1078.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. C.I.T. 64/89) of the Central Industrial Tribunal Jaipur, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Khadan Fileclay, Bikaner and their workmen, which was received by the Central Government on 24-2-2005.

[No. L-29025/16/2005-IR(M)]

B. M. DAVID, Under Secy.

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी. आई. टी. 64/89

महासचिव खदान मज़दूर यूनियन, हरी मार्ग, टॉक रोड, जयपुर।

— प्रार्थी

बनाम

मैसर्स शिवरतन ज्वाला प्रसाद कोठारी, खदान फाईलक्ट्स, बीकानेर।

— अप्रार्थी

प्रार्थना पत्र बाबत निरस्त करने एकपक्षीय कार्यवाही 29-9-94, अपास्त करने आदेश दिनांक 19-10-94 व 21-8-98 तथा निरस्त कराये जाने अवार्ड दिनांक 16-12-98

उपस्थित

पीठासीन अधिकारी : श्री पी. एल. हिस्सारिया, आर. एच. जे. एस.

अप्रार्थी की ओर से : श्री एस. पी. सिंह

प्रार्थी की ओर से : कोई उपस्थित नहीं

दिनांक आदेश : 6-1-2005

आदेश

1. उक्त सी. आई. टी. रैफरेंस सं. 64/89 में दिनांक 16-12-98 को न्यायाधिकरण द्वारा अवार्ड पारित किया गया था। उक्त अवार्ड को तथा इस बीच प्रसारित आदेश दिनांक 29-9-94, 19-10-94 व 21-8-98 को निरस्त कराने के लिए अप्रार्थी नियोजक ने यह प्रार्थना पत्र इन तथ्यों के साथ पेश किया है कि माननीय न्यायालय के समक्ष यह विवाद 6 जून, 1989 को दर्ज किया गया था जिसमें 15-2-93 को नो डिस्प्यूट अवार्ड पारित किया गया जो राजपत्र में प्रकाशित भी हो गया। उसके पश्चात् अप्रार्थी नियोजक को किसी तरह की कोई सूचना नहीं मिली और सहायक श्रम आयुक्त (केन्द्रीय) के 14-6-99 के पत्र के पश्चात् न्यायालय की पत्रावली देखने से यह तथ्य ध्यान में आया कि प्रार्थी श्रमिक के प्रतिनिधि ने उक्त नो डिस्प्यूट अवार्ड को अपास्त करने का प्रार्थना पत्र दिया जिसकी अप्रार्थी पर कभी तामील नहीं हुई। 29-9-94 को अप्रार्थी नियोजक पर गलत रूप से तामील मानी जाकर एक पक्षीय कार्यवाही कर 19-10-94 को नो डिस्प्यूट अवार्ड अपास्त कर दिया गया और उसके पश्चात् भी अप्रार्थी को सुनवाई का कोई अवसर नहीं दिया गया। और 16-12-98 को अप्रार्थी के विरुद्ध एकपक्षीय अवार्ड पारित कर दिया गया। चूंकि अप्रार्थी को कभी भी सुनवाई का अवसर नहीं मिला, उसे इस संबंध में कोई नोटिस तामील नहीं कराया गया इसलिए इस एकपक्षीय अवार्ड को अपास्त किया जावे।

2. इस प्रार्थना पत्र का नोटिस प्रार्थी श्रमिक को दिया गया लेकिन 19-2-03 को प्रार्थी श्रमिक की ओर से बाबूजूद तामील किसी के उपस्थित नहीं आने पर एकपक्षीय कार्यवाही का आदेश दिया गया। अप्रार्थी नियोजक के विद्वान प्रतिनिधि की इस प्रार्थना पत्र बाबत बहस सुनी, पत्रावली का अवलोकन किया।

3. अप्रार्थी नियोजक के विद्वान प्रतिनिधि का मुख्य तर्क यह है कि नो डिस्प्यूट अवार्ड पारित होने के पश्चात् उसको अपास्त किये जाने का श्रमिक की ओर से जो प्रार्थना पत्र दिया गया है, उसकी अप्रार्थी नियोजक पर कभी भी तामील नहीं हुई और 29-9-94 को गलत तौर पर

सहबन उस पर तामील मानी जाकर एकपक्षीय आदेश दिया गया और 19-10-94 को एक पक्षीय नो डिस्प्यूट अवार्ड अपास्त कर दिया गया जो गलत है। पत्रावली का अवलोकन करने से स्पष्ट तौर पर जाहिर होता है कि 29-9-94 को पेशी के लिए अप्रार्थी नियोजक को रजिस्टर्ड ए. डी. द्वारा नोटिस भेजा गया है जिसकी प्राप्ति अभिस्वीकृति की रसीद पत्रावली में लागी हुई है जिस पर अप्रार्थी को उक्त नोटिस 20-9-94 को प्राप्त हुआ प्रतीत होता है। यद्यपि हस्ताक्षर अस्पष्ट हैं, किसके हैं, पता नहीं चलता, कोई मोहर भी नहीं है परन्तु अप्रार्थी का जो पता दिया गया है वह स्पष्ट है, पोस्ट ऑफिस की मोहर भी स्पष्ट है और पोस्ट ऑफिस ने यह रसीद इस पते पर प्राप्त होना बताते हुए अधिकरण को दी है जिसको मानते हुए अप्रार्थी के विरुद्ध 29-9-94 को एकपक्षीय कार्यवाही का आदेश दिया गया है।

4. मेरे विनम्र मत में इस प्राप्ति रसीद को नहीं मानने का कोई कारण नहीं है। मात्र यह कह देने से कि अप्रार्थी या उसके किसी कर्मचारी को यह नोटिस प्राप्त नहीं हुआ, इस तथ्य को स्वीकार नहीं किया जा सकता क्योंकि दिया गया पता शुद्ध व स्पष्ट है जिसपर रजिस्ट्री की तामील की गई है। ऐसे में 29-9-94 को अप्रार्थी नियोजक के विरुद्ध एकपक्षीय कार्यवाही का किया जाना किसी प्रकार गलत नहीं माना जा सकता और इसी तरह 19-10-94 को नो डिस्प्यूट अवार्ड को अपास्त किये जाने के आदेश को भी गलत नहीं माना जा सकता। इसलिए इस संबंध में दिया गया प्रार्थना पत्र खारिज किये जाने योग्य है।

5. उसके बाद भी अप्रार्थी को पर्याप्त अवसर दिये गये हैं और उसके नहीं आने के कारण ही 16-12-98 को अप्रार्थी नियोजक के विरुद्ध एकपक्षीय अवार्ड पारित कर प्रकाशित कराया गया है जिसको अपास्त किये जाने का कोई आधार नहीं है। अतः अप्रार्थी नियोजक द्वारा प्रस्तुत यह प्रार्थना पत्र खारिज किया जाता है।

6. आदेश सुनाया गया। विविध पत्रावली फैसल शुमार होकर मूल प्रकरण सी. आई. टी. 64/89 को पत्रावली के साथ संलग्न की जावे।

पी. एल. हिस्सारिया, न्यायाधीश

नई दिल्ली, 25 फरवरी, 2005

का. आ. 1079.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ ट्रावनकोर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, इरनाकुलम के पंचाट [संदर्भ संख्या 25/97(सी)] को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-2-2005 को प्राप्त हुआ था।

[सं. एल-12012/138/1996-आईआर (बी-1)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 25th February, 2005

S.O. 1079.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award [I.D. No. 25/97(C)] of the Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Travancore and their workmen, which was received by the Central Government on 24-2-2005.

[No. L-12012/138/1996-IR(B-11)]

C. GANGADHARAN, Under Secy.

ANNEXURE

**IN THE CENTRAL GOVERNMENT LABOUR
COURT, ERNAKULAM**
(IN THE LABOUR COURT, ERNAKULAM)

(Monday, the 31st day of January, 2005)

PRESENT :

SHRI K.K. UTHARAN, B. SC., LL.B.,
Presiding Officer

INDUSTRIAL DISPUTE No. 25 OF 1997 (Central)

BETWEEN :

The Regional Manager I, Regional Office, State Bank of Travancore, Thrissur.

AND

The workman of the above concern Sri. A. Nandakumar, 'Aswathy' Harisree Vidya Nagar, Ponkunnam, Thrissur-2.

REPRESENTATIONS :

Sri. M. Pathros Mathai,
Advocate,
Banerji Road,
Cochin-682016.

...For Management

Sri. H.B. Shenoy,
Advocate,
Krishna Swamy Road,
Cochin-25.

...For Workman

AWARD

This reference was made by the Central Government of India as per letter No. L-12012/138/96-IR (B.I.) dated 2-9-97. The dispute is between the Regional Manager, State Bank of Travancore and their workman. The dispute referred is :

"Whether the action of the management of State Bank of Travancore in imposing the penalty on Shri. A. Nandakumar of dismissal from Bank's service and treating the period of suspension as such, is legal and justified? If not, to what relief the workman is entitled?"

II. The workman filed claim statement raising the following: The workman herein while working as Head Clerk at Kunnamkulam branch of the management bank was placed under suspension in December 1990 and after a lapse of about 4 months from the date of suspension, he was served with a chargesheet alleging misconducts of 'wilful damage or attempt to cause damage to the property of the bank or any of its customers' and of 'Doing acts prejudicial to the interests of the Bank or gross negligence or negligence involving or likely to involve the Bank in a serious loss'. The workman had submitted an explanation to the charges, denying the alleged charges which are frivolous and false. Without properly considering the workman's explanation, an enquiry was ordered into the alleged charges. The workman was denied permission to engage a lawyer in the enquiry and therefore, the workman had sought

permission to be defended by a Union Representative. That too, was declined initially. However, when the workman took up the matter thereof to the Court of law, the workman was allowed by the management to be defended by his Union Representative.

After the purported enquiry, the workman was served with the copy of enquiry findings whereby he was held guilty of the alleged Charges. The workman had submitted his written submissions against the enquiry findings thereof, but without considering the same the workman was held guilty of the alleged charges and the punishment of 'Dismissal from service without notice' was proposed to be inflicted on the workman. The workman had made his submissions against the proposed punishment. Without regard for the workman's submissions, the aforesaid proposed punishment was imposed on the workman by order dated 28-2-1995 passed by the Regional Manager at Thrissur Regional Office of the management bank. It was further unilaterally ordered that the period of suspension undergone by the workman be treated as on suspension itself without eligibility for salary and allowances.

The workman had on 27-4-1995 preferred a departmental appeal against the aforesaid dismissal order before the Deputy General Manager of the management bank at Kozhikode. Though the said departmental appeal was required to be disposed off within 2 months from the date of appeal, it was disposed off only after about 9 months thereof, whereby the order of dismissal and treatment of suspension period as off duty was confirmed and the departmental appeal was dismissed.

Aggrieved by the aforesaid action of the management in imposing the penalty of dismissal on the workman and treating the period of suspension as such, the workman had raised the instant industrial dispute. The workman craves leave to respectfully submit that the impugned penalty of dismissal imposed by the management and the impugned action of the management in treating the period of suspension as such, is illegal and unjust on various counts.

The workman most respectfully begs to submit that as per the mandates of Clause 19.4 of First Bipartite Settlement which admittedly governs the instant disciplinary proceedings, the management could have dealt with the workman under Clause 19.12 as if he had committed an act of 'Gross Misconduct' or 'Minor Misconduct' and initiate disciplinary action issuing charge memo, only after the lapse of one year of the commission of the offence and not before that since steps had been already taken by the management to get the workman prosecuted, by filing a complaint before the Sub Inspector of Police, Thrissur Town East on 25-3-1991 and that too, only if the workman had not been put on trial. Again, if the authority to start prosecution proceedings had refused to do so or concluded no case for prosecution, then also the management could have proceeded with disciplinary proceedings in terms of Clause 19.12 of First Bipartite Settlement. In the instant case, the management had preferred a complaint on

28-5-1991 before the Police seeking to prosecute the workman in respect of the very same allegations as contained in the charge memo dated 19-4-1991. On the face of it, the charge memo is issued to the workman on 19-4-1991, that is well before the lapse of one year from the date of commission of the alleged offence. The criminal complaint registered by the management against the workman over the same incident as narrated in the charge memo dated 19-4-1991 is pending trial before the Judicial First Class Magistrate, Trissur. Prosecution proceedings thereof have neither been refused nor has the concerned authority concluded no case for prosecution. In the circumstances, the charge memo issued by the management before the lapse of one year from the date of commission of alleged offence, is ultra-vires the powers under Clauses 19.4 and 19.2 of First Bipartite Settlement. There by the charge memo and all the resultant disciplinary proceedings thereunder are void and ineffective. The punishment impugned herein, imposed on the workman in pursuance of void and ineffective charge memo as also disciplinary proceedings thereto, is therefore, liable to be set aside.

Impugned punishment is also illegal and bad, for it is passed in flagrant violation of Clause 19-4 of first Bipartite Settlement on yet another count. As per clause 19.4, if steps have been taken to prosecute an employee, disciplinary proceedings initiated by the bank has to be stayed pending completion of trial. In the instant case, the trial in respect of complaint lodged by the bank is pending trial. Trial thereof being pending before the Judicial first Class Magistrate, Trissur wherein the workman appeared and stands released on bail, the disciplinary proceedings in pursuance of the charge memo are bound to be stayed pending completion of the trial. However, without regard for the provision thereof, the Management has illegally proceeded with the disciplinary proceedings and passed the impugned punishment which is ultravires and without jurisdiction. The punishment imposed there under is non-est and void, for it proceeds in violation of the mandates of Clause 19.4 of first bipartite Settlement.

It is also submitted that the punishment impugned herein is bad in as much as it is passed in pursuance of disciplinary proceedings conducted on a set of allegations over which criminal proceedings is pending before the Court of Law. As a matter of fact, criminal proceeding before the Court is pending over the very same allegations as contained in the charge memo issued to the workman. Both the proceedings thereof being on the same set of allegations, the disciplinary proceeding initiated by the management ought to have been stayed and waived until the termination of criminal proceedings. The impugned punishment imposed on the workman in violation of the above basic principle of law, is illegal and unjust.

Without prejudice to the above submissions, it is also respectfully submitted that the charges alleged against the workman are vague and lack in material particulars besides being frivolous and false. Statements of allegations in the charge memo are not inter-linked with any of the misconducts enumerated under clause

19.5 (d) or 19.5(j) of First Bipartite Settlement. These Clauses are simply quoted, without revealing as to which clause, each of the allegation relates. It is neither revealed in the charge memo as to what precisely is the particular charge made against the workman, under each of the aforesaid Clause quoted. In fact, the very Clause 19.5(j) by itself is vague exposing an area not amenable to objective evaluation and therefore, no one can be punished under it. Coupled with this, the charge memo is silent as to the lists of witnesses and documents in support of the alleged charges. It is only in the course of enquiry, the Presenting Officer has prepared the Lists of Documents and Witnesses in support of the charge memo, that too, in piece-meal, causing prejudice to the workman. It is submitted that the punishment imposed on the workman based on such a vague and defective charge memo, is bad.

It is further submitted that the impugned punishment is illegal and unjust in as much as the enquiry on the basis of which the punishment is imposed on the workman, is one vitiated by serious infirmities. A reasonable opportunity of defence was denied to the workman in as much as his request for defence through a lawyer had been unilaterally declined by the Disciplinary Authority of the management bank without considering the relevant circumstances and on the basis of totally irrelevant considerations. The presenting officer being a legally trained mind well versed in the conduct of enquiry, in any event, the workman ought to have been afforded a chance for defence through a lawyer. Further, the charges against the workman being quite serious and complicated involving intricacies and the being a parallel criminal proceeding pending on the same set of allegations, a chance ought to have been afforded to the workman to be defended by lawyer, especially since he is quite experienced in the conduct of enquires. Blanket denial of workman's request for assistance through lawyer in the enquiry. Violates the principles of Natural Justice and renders the entire enquiry vitiated and unreliable. The impugned punishment and order based on such vitiated enquiry is liable to be set aside.

Even otherwise, the enquiry conducted by the management is vitiated. Principles of Natural Justice and equity were denied to the workman by a biased conduct of the enquiry in violation of the established procedure for conduct of enquiries. Management documents were marked in evidence simply at the instance of Presenting Officer and Investigating Officer without any identification through competent witness and without any proof whatsoever. Documents so marked are no evidence and could not have been relied against the workman. Further, perusal of the original documents relied by the management was not afforded to the workman and copies of such documents were unilaterally marked in enquiry, without considering the workman's objections. Again, inspection and production of certain documents in the custody of management which were sought by workman for effective cross-examination of management witnesses and for proving his innocence, were unilaterally denied on the premise that they are irrelevant; while

those documents were quite relevant and vital to the issues in the enquiry. Those documents were quite essential to establish that it is other staff who were involved in the incident and that workman had no role in it at all. To establish it and that workman has been discriminated as against other staff of the branch, those documents were quite vital. By denying those documents, the defence of the workman has been seriously prejudiced in as much as he stands deprived of a chance to bring the truth and his innocence to light in the enquiry. Reasonable opportunity of defence also stands deprived to the workman in so far as he has been denied the subsistence allowance that is legally due to him under the provisions of the Bipartite Settlements, inspite of repeated requests and demands made by the workman in this regard. The entire enquiry proceedings were conducted in a biased manner with a hostile vindictive and discriminatory attitude towards the workman. Enquiry proceedings and depositions were not faithfully recorded. Management witnesses were tutored and prompted to answer in tune with the charges. Vital questions put to witnesses from workman's side were refused to be recorded

and lightly brushed aside, without adjudicating upon it. Leading questions were indiscriminately put by the Presenting Officer to management witnesses in the Chief examination and Re-examination. Material witnesses and evidence were suppressed in the enquiry. So also, independent outside witnesses were suppressed with oblique motives. An opportunity to examine workman's witnesses and to prove his innocence was also denied to the workman, without any just cause. Yet another grave irregularity in the enquiry is the reliance placed on xerox copies of documents without production of its originals, causing prejudice to workman by depriving him perusal of the originals. So also, very vital documents from workman's side were refused to be made in evidence by the Enquiry Officer, at the instance of flimsy objections from the Presenting Officer. It is respectfully submitted that the enquiry conducted by the management against the workman is vitiated and the impugned punishment based on it is liable to be set aside.

Further it is submitted that the finding of guilt entered against the workman by the Enquiry Officer and the management, is illegal, unjust, erroneous, biased and perverse. Infact, the findings thereof are based on management documents marked without any identification through proper witness and without any proof and without producing its originals in the enquiry. These documents and contents therein are simply taken as tangible undisputable proof without identification or confirmation of contents and without authentication. Signatures, hand writings and contents in those documents are taken for granted without legal proof. Impugned findings are entered on such unproved documents. That apart, the findings proceed on hearsay evidence which is not corroborated by other evidence. Most of the management witnesses examined in the enquiry are interested partisan witnesses having some interest in the incident. No independent reliable evidence is there on record to substantiate the charges alleged

against the workman. Impugned findings are based on interested partisan hearsay evidence which stands uncorroborated by any independent evidence and unproved documents. Punishment of dismissal based on such findings is not legal or just.

The findings of guilt against the workman are in fact based on surmises and conjectures not supported by any evidence on record. The findings thereof proceed on a totally erroneous appreciation of evidence on record. It lacks a dispassionate and judicious appreciation of evidence ignoring the role of cross-examination in the scheme of evaluation of evidence. There are no reasoned conclusions independent assessments of evidence and proper adjudication/consideration of workman's submissions. Unproved statements and reports are relied on, without examining the maker at all. So also reliance is placed on documents in criminal case pending trial before the Court. Findings of guilt are entered without any legal or relevant evidence on record to substantiate the charges, rather relying on unproved and irrelevant evidence. The evidence on record in the enquiry does not substantiate the charges against the workman. On the other hand, it substantiates the workman's innocence. In the light of the evidence on record in the enquiry, the workman is entitled to be exonerated and the finding entered against him by the management are liable to be set aside.

The workman also begs to submit that the impugned punishment and order is illegal and bad for it is tainted by malafides and discrimination. Though several discrepancies are traced out in the branch and all the staff at the branch were either issued memos or charge-sheets; in the matter of conducting disciplinary action workman has been singled out and action is initiated against him alone, without any just or reasonable cause. In the case of all other staff involved in the very same incident and who had been given memos and charge-sheets, the management dropped the disciplinary proceedings and singled out this workman. This discriminatory attitude of the management exhibits the malafides and vindictiveness towards the workman and his union. Infact, the workman stands victimised and made a scape-goat for his affiliation to a particular union.

The punishment of dismissal imposed on the workman in any view, is excessive, harsh and disproportionate. It is imposed on the workman without considering his service records and other relevant circumstances. The workman has put in meritorious service in the management bank without any previous black-mark. Impugned punishment is not all commensurate with the alleged charges and is liable to be set aside.

The workman also begs to submit that order of the management treating his suspension as such, is one passed without affording the workman an opportunity of pre-decisional hearing or to show-cause on the same. It is therefore illegal and violative of principles of Natural Justice. Further it is submitted that suspension order issued before the issuance of charge memo to the workman is *ab initio* void and ineffective in as much as

it is ultra-vires, for the Bipartite Settlements do not empower the management to suspend the service of an employee before the issuance of charge memo. Under clause 19.12. of First Bipartite Settlement as amended by Fourth Bipartite Settlement, an employee can be suspended only pending enquiry or initiation of enquiry. Thus the workman could have been suspended only when enquiry is pending or when initiation of enquiry is pending. Question of initiating enquiry can arise only after the issuance of charge memo. Before charge memo there arises no occasion of an enquiry or question of initiation of enquiry. Therefore, before issuance of charge memo, no suspension could have been made. The suspension of the workman's services before the issuance of a charge memo is thereby illegal and void. Workman is therefore entitled to be treated as on duty, there being no suspension in the eye of law. The workman may also submit that he was kept under suspension for a period of over four years. The proceedings were deliberately delayed by the management with malafide motives. Workman cannot be held responsible/liable nor can he be penalised for such prolonged suspension, due to delay on the part of the management by treating this entire period as on suspension itself. This is patently unjust. Workman is entitled to be treated as on duty with full pay and allowances, in any view of the matter.

It is respectfully submitted that the impugned penalty of dismissal imposed on the workman by the management and the management's order treating his period of suspension as such, are illegal and unjust. The workman is entitled to be reinstated in service with full backwages, continuity of service and other attendant benefits.

III. The Management filed reply statement raising the following contentions :—Several statements, claims and allegations made by the workman in his claim statement in the above I.D. are hereby denied as without any basis, except which are specifically admitted herein.

It is submitted that Sri. A. Nandakumar, Head Clerk Kunnamkulam Branch was placed under suspension vide order dated 26-12-1990 issued by the Regional Manager-1, SBT, the Disciplinary Authority as he had committed fraud/forgery while working at Thrissur Round South Branch of the Bank as clerk my manipulations in SB accounts and call deposits accounts of the customers of the Bank. The workman was thereafter issued a charge memo dated 19-4-1991 informing him that the above acts amounted to following misconducts under the Bi-partite Settlement of 1966.

Para 19.5(d) : Wilful damage or attempt to cause damage to the property of the Bank or any of its customers.

Para 19.5(j) : Doing any act prejudicial to the interest of the Bank or gross negligence or negligence involving or likely to involve the Bank in serious loss.

In the said memo the workman was called upon to submit his explanation if any within 15 days. However he

submitted his explanation only on 4-6-1991. As his explanation was not found satisfactory the disciplinary authority ordered an enquiry into the charges levelled against the workman by his letter dated 21-6-1991. Sri. K. V. Madhavankutty, Branch Manager, State Bank of Travancore, Thrissur ADB was appointed as the Enquiry Officer. The workman was informed that he will be permitted to be defended by a representative of a registered union of the bank employees of which he is a member and if he is not a member of any trade union of Bank employees he would be permitted to be assisted by a representative of a registered trade union of the employees of the Bank in which he is employed. He was informed that he will not be allowed to be represented by a lawyer. He was also informed that he will be given sufficient opportunity to defend his case by examining his witnesses and cross examining the management's witnesses. The workman however, informed him that he should be allowed to be assisted by a lawyer at the enquiry.

The enquiry was posted to be held on 10-2-1992 for which due notice was given to the workman. The workman however did not report for the enquiry on 10-2-1992. He by his letter dated 6-2-1992 had requested for further extension of time by three weeks. The Enquiry Officer gave further time and the enquiry was posted to 5-3-1992. On 5-3-1992 also the workman did not appear for the enquiry. He by his letter dated 11-3-1992 requested the Regional Manager, State Bank of Travancore, Thrissur the disciplinary authority for permitting him to be assisted at the enquiry by a lawyer. The Disciplinary Authority by his letter dated 15-3-1992 with copy to the Enquiry Officer, informed him that the charges levelled against the workman does not involve any complicated legal issues and the Bank's case is being presented by an Officer of the Bank who is not a legally trained person and therefore his request to allow him to be assisted at the enquiry by a lawyer cannot be agreed to. Thereupon the workman proposed Sri. C.P. Balakrishnan and his defence representative. Since Sri. Balakrishnan was not a member of any union of the Bank employee the proposal to allow Sri. Balakrishnan to represent him at the enquiry was not agreed to as there was no such practice or rule permitting outsiders to assist the workman at the enquiry. Thereupon the workman filed a petition in the Munsiff Court, Thrissur seeking permission to defend his case by Sri. Balakrishnan. In the meanwhile the Bank reviewed its decision and permitted Sri. Balakrishnan to represent the workman at the enquiry.

At the enquiry the management was represented by Sri. Cherian Steve Abded, Manager, NRI Branch, State Bank of Travancore, Tirur Malappuram District and the workman was assisted by Sri. C.P. Balakrishnan as required by him. The enquiry commenced on 10-2-1992 and closed on 15-3-1994. the worker and his representative participated in the enquiry. The enquiry was adjourned several times on the request of the workman.

At the enquiry held on 20th November, 1992 the Enquiry Officer read out the charges referred to in the charge memo dated 19-4-1991. The workman denied the

charges. On the day the presenting officer submitted the list of witnesses cited by the management and list of documents required to establish the charges levelled against the workman. Before commencing the evidence the documents relied on by the management were made available to the workman and his representative for inspection. The workman also filed documents on his behalf during the course of the enquiry. In all 8 witnesses were examined for the management. Although the workman was given opportunity to examine his witnesses, he informed that he has no witness. The workman and his representative participated in the enquiry and cross-examined the management witnesses. At the close of the enquiry both the workman and his representative as also the presenting officer for the management were given opportunity to sum up their cases. The submissions received from both the sides were examined by the enquiry officer. Based on the evidence adduced at the enquiry officer found the workman guilty of misconducts alleged against him in the charge memo issued to him by his report dated 30-6-1994.

The Disciplinary Authority also examined the proceeding of the enquiry and connected papers and he also came to the conclusion that on the basis of the evidence adduced at the enquiry the misconducts levelled against the workman in the aforesaid charge memo stood proved against him. He therefore sent a copy of the findings of the Enquiry Officer to the workman by his memo dated 14-7-1994. The Disciplinary Authority after careful consideration of the representation from the workman issued the preliminary order dated 31-10-1994 proposing to dismiss him from the Bank service. The workman submitted representation on 5-12-1994, against the proposed punishment. Thereafter the Disciplinary Authority considered the workman's representation as also his submissions at the personal hearing. As the misconducts proved against the workman were of very grave and serious nature the disciplinary authority could not find justification to modify his proposal, under the memo dated 31-10-1994 issued to the workman and the workman was dismissed from the Bank's service by order dated 28-2-1995. The workman thereafter submitted an appeal against the punishment of dismissal to the Appellate Authority on 27-4-1995. The Appellate Authority considered his representation and after hearing him found that there was no merit what so ever for altering or reducing the punishment imposed on the workman. Accordingly the punishment imposed on the workman was confirmed by the Appellate Authority by his order dated 5-1-1996.

In regard to the statements and claims of the workman in para 2 of his claim statement, it is submitted that the workman was placed under suspension from service vide order dated 26-12-1990 issued by the Regional Manager (I) (the disciplinary authority). He was thereafter issued a memo on 19-12-1990 giving details of the acts of misconducts alleged against him. An enquiry into the charges levelled against the workman was ordered by the disciplinary authority by his memo dated 21-6-1991 issued to the workman since the explanation submitted by the

workman on 4-6-1991 was not found satisfactory. The allegation that the enquiry was ordered without properly considering his explanation is totally baseless. The enquiry was ordered only on finding that the explanation submitted by the workman on 4-6-1991 was not satisfactory.

In regard to the allegation that the workman was declined permission to engage a lawyer at the enquiry it is submitted that in the order dated 21-6-1991 issued by the Disciplinary Authority it was made clear to the workman that he will not be permitted to be represented by a lawyer. Again by letter dated 16-3-1992 issued by the disciplinary authority to the workman he was informed that the charges levelled against the workman did not involve complicated legal issues and the bank's presenting officer was also not a legally trained man and in the circumstances the workman cannot be permitted to be represented by a lawyer at the enquiry.

In regard to the allegation of the workman that he was not allowed to be represented by a union representative it is submitted that by letter dated 21-6-1991 issued to the workman he was informed that he will be permitted to be assisted at the enquiry by an office bearer of the Union of the Bank employees of which he was a member. The Bank Employees Federation of India proposed Sri. P. Balakrishnan to represent/assist the workman at the enquiry. On enquiry it was confirmed by the Staff Union that he was not an employee of the Bank nor an office bearer of any trade union. Hence Sri. Balakrishnan was not permitted to represent/assist the workman at the enquiry. However, it was later learnt that Sri. Balakrishnan used to represent the association in such enquiries. On that basis Sri. Balakrishnan was permitted to assist/represent the workman at the enquiry.

The several allegations made by the workman in paragraph 3 of the claim statement are denied as without any basis. The enquiry was conducted by the enquiry officer strictly adhering to the principles of natural justice. The workman and his representative were given sufficient opportunity to defend the workman's case by cross-examining the management's witnesses and they cross-examined the management's witnesses. Although opportunity was given to the workman to examine his witnesses he did not examine anybody. Copies of all the documents relied on at the enquiry by the Management were given to the workman before commencing the evidence. the list of witnesses was also given before commencing the evidence. the workman was also given opportunity to give a written submission in this case. The entire evidence at the enquiry was considered by the enquiry officer. He also examined the summing up notes given by the present officer and also the workman. Based on the evidence at the enquiry the workman was found guilty of misconduct levelled against him in the charge memo dated 19-4-1991. The disciplinary authority also examined the proceedings of the enquiry and connected papers and he on his own came to the conclusion that the misconducts alleged against the workman have been proved against him. As the acts of misconduct proved were of grave and serious nature the

disciplinary authority by his preliminary order dated 31-10-1994 issued to the workman proposed to dismiss him from service and to treat the entire period of suspension as such without wages or any other payment except the subsistence allowance paid to him. A copy of the findings of the enquiry officer was also sent to the workman and he was asked to make his representation if any against the proposed punishment. The workman thereafter made a representation for a personal hearing by his letter dated 5-12-1994. The workman was given a personal hearing on 4-1-1995. The disciplinary authority considered the representation dated 5-12-1994 submitted by the workman as also the points raised by the workman at the personal hearing on 4-1-1995. He however, did not find any merit in his representations and he issued the final order of punishment on 28-2-1995 dismissing the workman from the service of the Bank and treating the entire period of suspension as such. The allegation in paragraph 3 of the claim statement that the disciplinary authority issued the order for treating the period of suspension as such unilaterally without hearing the workman is totally false and baseless. The disciplinary authority as already submitted in the preliminary order dated 31-10-1994 proposing to dismiss the workman, had proposed that the period of suspension will be treated as such and he will not be eligible for wages or any other payment except the subsistence allowance paid to him. His representation on this order was carefully considered by the disciplinary authority before issuing the final order dated 28-2-1995 confirming the suspension as such. All allegations in this regard are baseless.

The allegations in paragraph 4 of the claim statement that the workman has alleged that decision on the appeal dated 27-4-1995 filed by him against the punishment was unduly delayed is without any basis. It is true that the workman filed an appeal on 27-4-95 against the punishment imposed on him to the appellate authority. The workman was given time for personal hearing by the appellate authority. However, he did not appear for the personal hearing on the first date given and requested for another chance by his letter dated 29-7-1995. The personal hearing was therefore adjourned to 23-8-1995. The workman did not appear for the hearing on this day also, and again requested for adjournment of the personal hearing. The appellate authority gave him further opportunity and the personal hearing was adjourned to 14-5-1995 by letter dated 23-8-1995 issued to him by the appellate authority. On 24-9-1995 the workman reported to the appellate authority and requested that he should be allowed to be represented by an advocate. This was declined and finally the workman appeared for personal hearing on 28-10-1995. The appellate authority considered the representation and also the points raised by the workman during the personal hearing. However, he did not find any merit in the appeal preferred by the workman and dismissed the appeal by his order dated 28-2-1996 issued to the workman. Thus it is evident that the delay in disposing of the appeal was consequent to the several adjournments sought for by the workman for personal hearing.

The claim of the workman in paragraph 5 that treating the period of suspension as such is illegal and unjust is without any basis. It is submitted that in the case of punishment of dismissal as per clause 19—12(b) of the first bi-partite settlement dated 19-10-1966 the workman is not entitled to any wages or allowance for any part of period of suspension. In this connection it is further submitted that even in the case of punishment other than dismissal Management has discretion to give or not to give the wages for the entire period or part of the period of suspension. In the instant case it is submitted, the acts of misconduct proved against the workman were of very grave and serious nature warranting the punishment of dismissal and the workman was accordingly dismissed from service. That being the case there is nothing illegal or unjust in treating the period of suspension as off duty without wages or any payment other than the subsistence allowance already received by the workman.

In regard to the several statements and allegations made in Paragraph 6 of the claim statement it is submitted that as per the clause 19.4 of the first bi-partite settlement of 1996 if after steps have been taken to prosecute an employee of the bank for an offence and he is not put on trial within a year of the commission of the offence, the management can deal with him as if he had committed an act of misconduct as defined in the bi-partite settlement. In this case the date of commission of the offence was 24-10-1990 and the complaint was lodged by the Bank before the police on 26-3-1991. The claim of the workman that the Management preferred a complaint to the police only on 28-5-1992 is not correct. The one year period after commission of the offence contemplated in para 19.4 of the bi-partite settlement expired on 25-10-1991. The enquiry into the charges levelled against the workman was delayed for completion of one year from the date of commission of the offence and the enquiry proceedings commenced on 10-2-1992. Thus it is submitted that Management has not violated para 19.4 of the bi-partite settlement in any manner.

The allegations raised by the workman in paragraphs 7 and 8 of the claim statement are not sustainable. As already submitted the management initiated disciplinary proceedings in terms of the bi-partite settlement. The ingredients necessary to constitute the misconducts referred to in the charge memo issued to the workman are not the same as the ingredients necessary to constitute the criminal offence levelled against the workman in the criminal proceedings. It is therefore not correct to say that both the domestic enquiry and criminal proceedings are based on the same set of misconducts. Further it is submitted that there is no bar on initiating disciplinary action in a case where there is no bar on initiating disciplinary action in a case where criminal proceedings are pending except as provided under para 19.4 of the bi-partite settlement referred to in the preceding paragraph. The management had complied with the stipulations in the above said para of the bi-partite settlement in holding the enquiry into the charges against the workman. The enquiry and the punishment is not questionable in any manner.

The allegation in paragraph 9 of the claim statement that the charge sheet was vague and lacked material particulars are also without any basis. It is respectfully submitted that the charge memo issued to the workman had given details of various acts of misconducts committed by him as also the misconducts it amounted to under clause 19-5 of the bi-partite settlement dated 19-10-66. It is further submitted that the workman had not raised any such objection either when the charge memo was read out to him by the enquiry officer or at any time during the course of enquiry. He had also not raised any such objection in his explanation dated 4-6-1991 submitted in reply to the charge memo issued to him. The allegation is therefore baseless and unsustainable.

There is no merit whatsoever in the allegation that the charge memo was silent on the list of witnesses and documents in support of the alleged charges. It is not mandatory that the charge memo should contain the list of witnesses and documents to support the allegations. It is further submitted that the list of witnesses and documents relied on by the management were given to the workman before commencing the examination of the witnesses for the management. The workman and his representative were given sufficient time and opportunity to inspect the documents and they inspected the documents before commencing the evidence.

The claim of the workman in para 10 of the claim statement that the punishment imposed is illegal and unjust as the enquiry is vitiated by serious infirmities is hereby denied as totally baseless. The allegation that the workman was denied opportunity to defend his case by an advocate without considering the relevant circumstances is hereby denied. It is submitted that in the enquiry order dated 21-6-1991 itself it was clearly stated that the workman will not be allowed to be represented by a lawyer. The charges levelled against the workman did not involve complicated legal issues and the presenting officer was not a legally trained person as alleged. He was neither a law graduate nor he had any training in legal matters. In the circumstances there was no justification whatsoever for allowing the workman to defend his case by a lawyer at the enquiry and the same was communicated to him by letter dated 16-3-1992 issued to him by the disciplinary authority. It is further submitted that subsequently the workman was permitted to be defended/assisted by Sri. C.P. Balak Shanan a representative of a trade union as chosen by the workman himself. The enquiry is therefore not vitiated in any manner as alleged by the workman.

In paragraph 11 of the claim statement the workman has raised several allegations. None of the allegations are specific. It is submitted that there is no substance whatsoever in the allegation that the enquiry was held without following the principles of natural justice. The workman was given ample opportunity to defend his case. The enquiry was adjourned on several occasions on the request of the workman in order to provide further opportunity to defend his case. He was also given sufficient opportunity to cross-examine the management witnesses and examine his witnesses. But he did not

examine any witness on his side. It is submitted that the documents produced at the enquiry were either the originals or certified copies of the relevant documents of the Bank which are admissible in evidence, even before the court. Sufficient time was given to the workman and his representative for inspection and putting questions on the documents presented by the management. Workman also produced documents during the course of the enquiry and participated in the enquiry. The allegation that copies of documents were unilaterally marked at the enquiry is without any relevance. All those documents produced at the enquiry were either originals or certified copies of the documents. These were inspected by the workman and his representative. The allegation that workman was denied opportunity to inspect the document is false and baseless. The workman was permitted to inspect the documents and he inspected them. The allegation that the workman was denied any document relevant to the issue under the custody of the management is hereby denied as without any basis. The workman was not denied any document available with the management relevant to the issue.

The allegation that workman was deprived of subsistence allowance legally due to him is hereby denied as without any basis. The workman was paid subsistence allowance to which he was legally entitled for the entire period of suspension.

The allegation that the enquiry proceedings were held in a biased manner with a hostile, vindictive and discriminatory attitude towards the workman is hereby denied as false and malicious. The enquiry was conducted in a just and fair manner. The enquiry was not biased hostile, vindictive or discriminatory. The enquiry was adjourned several times to accommodate the request of the workman for adjournment. The enquiry officer was impartial fair and just. He held the enquiry strictly adhering to the principles of natural justice.

Yet another allegation raised by the workman is that the enquiry proceedings and depositions were not faithfully recorded. It is submitted that this is a totally false and baseless allegation intended to tarnish the good name of the enquiry officer. The enquiry proceedings and depositions were recorded faithfully and correctly as it took place at the enquiry and signed by all the parties participated in the enquiry including the workman and his defence representative. The workman has also not raised any such complaint during the course of the enquiry.

Equally false and baseless is the allegation that the management witnesses were tutored and prompted to answer in such a way as to prove the charges. The allegation of the workman that any question put from the workman's side were refused to be recorded is also false and baseless. All relevant questions put the workman was recorded. None of the questions relevant to the charges was which disallowed by the enquiry officer. The allegation that leading questions were indiscriminately put by the presenting officer is also not true. All the points raised at the enquiry by the parties concerned

were recorded correctly and faithfully and the workman has vouched for the same by affixing his signature to the proceedings.

The allegation of the workman that material witnesses and evidence were suppressed is hereby denied as totally false and baseless. The allegations of the workman that he was denied opportunity to examine his witnesses is also without any basis. It is submitted that after the examination of the witnesses for the management when the enquiry officer asked the workman to examine his witnesses he replied that he has no witness to be examined. That being the case the question of the enquiry officer denying opportunity to the workman to examine his witnesses does not arise.

The allegation of the workman that vital documents from the workman's side were refused to be marked in evidence on flimsy objections from the presenting officer is also without any basis. All the documents relevant to the charges levelled against the workman presented at the enquiry were marked and made available to the parties. It is submitted that the enquiry was held in a just and fair manner adhering to the principles of natural justice.

The allegation in paragraph 12 of the claim statement that the findings of the enquiry officer are illegal, unjust, erroneous, biased and perverse is hereby denied as totally baseless. The findings of the enquiry officer are based on the evidence adduced at the enquiry including the document filed by the management as well as the workman. The contention of the workman that the documents have not been authenticated is not true. Witnesses have authenticated the documents and such authentications were not contradicted or contested by the workman. Signature, handwriting and contents in these documents were also vouched for by the witnesses and was not contested by the workman. It is submitted that the findings of the enquiry officer are based on substantial evidence at the enquiry. Further it is submitted that there is no bar on admitting hearsay evidence in domestic enquiry. The evidence thus adduced at the enquiry were also not contested by the workman. The objections now being raised by the workman are only afterthoughts and cannot be entertained.

The allegation that the witnesses were interested parties is also without any basis. The findings are based on the evidence adduced at the enquiry, it is not biased or perverse in any manner as alleged by the workman.

The allegations raised by the workman in paragraph 13 of the claim statement are also without any basis. As already submitted the findings are based on the evidence at the enquiry. There is no substance or relevance in the allegation that the enquiry officer had ignored any evidence in the evaluation of the evidence. The finding of guilt by the enquiry officer is based on sufficient evidence and cannot be questioned. It is further submitted that there is no bar in placing reliance on documents in criminal case and the workman's allegation in this regard is of no relevance.

In regard to the allegations in para 14 of the claim statement it is submitted that there is no malafides or discrimination in the punishment order issued to the workman. There is no merit in the argument of the workman that he was singled out and action initiated against him alone. No other employee was connected with the offence alleged against the workman as such the question of singling out the workman did not arise. It is submitted that the management had taken appropriate disciplinary action in cases where misconducts were reported. The enquiry was not discriminatory or malafide or vindictive in any manner. The contention that the workman stands victimised for his affiliation to any particular union is hereby denied as false and baseless. No evidence of victimisation has been brought out by the workman at the enquiry.

The contention in para 15 of the claim statement that the punishment imposed is excessive harsh and disproportionate is also without any basis. The workman was found guilty of misconducts of very grave and serious nature that it entails him unfit to be retained in the service of the Bank. The workman was found guilty fraud and forgery that he manipulated the SB accounts and deposit at call account of the customers and manipulated the records of the Bank to conceal the evidence of forging. Such workman cannot be trusted to be retained in the service of the Bank and the only punishment that he deserved was of dismissal from the Bank's service. The punishment of dismissal imposed is therefore not harsh excessive or disproportionate in any manner.

The contention that the workman had put in number of years of service etc. are of no relevance on the face of misconduct of such a grave and serious nature as above proved against him.

The allegation of the workman in para 16 that the order of the management to treat the period of suspension as such was passed without affording the workman an opportunity to show cause is not correct. The disciplinary authority under his preliminary order dated 31-10-1994 issued to the workman had proposed that the period of suspension will be treated as such without eligibility for wages or payment of any benefit other than the substance allowance already drawn by him. The workman was asked to make his representation if any on the preliminary order and he was also given a personal hearing. The final order treating the period of suspension as such was issued only after considering the workman's submissions. Therefore the allegation of the workman that the order for treating the period of suspension as such was issued without affording opportunity to the workman to explain his case is without any basis.

It is further submitted that the workman was suspended by order dated 26-12-1990 wherein it was made clear that the suspension ordered was pending disciplinary proceedings initiated against the workman for the alleged misconducts committed by him. It is therefore submitted that the suspension order issued is not in violation of clause 19.12 of the first bi-partite settlement as alleged. The suspension order is perfectly

legal and binding and cannot be questioned in any manner.

It is further submitted that the management Bank had to wait to commence the enquiry after completion of one year after the commission of the offence by the workman as contemplated in paragraph 19.4. of the first bi-partite settlement. There was no intentional delay whatsoever in the matter. The allegation that the enquiry proceedings have been deliberately delayed by the management is without any basis and is hereby denied. The enquiry proceedings were delayed due to reason attributable to the workman. The enquiry was adjourned several times on request of the petitioner or his representative. Therefore there is no basis whatsoever in the claim of the workman that the delay was due to the management and the workman is entitled to any wages or payment, other than the subsistence allowance already paid to him.

It is submitted that the workman was suspended from service for very grave and serious misconducts alleged against him. The suspension order was issued contemplating disciplinary proceedings including enquiry into the charges levelled against the workman. The enquiry was conducted by a senior officer of the Bank. At the enquiry the workman was given sufficient opportunity to defend his case. He was assisted at the enquiry by a representative of his choice. List of witnesses and documents were given in advance and the workman/his representative were given sufficient time to inspect the documents before commencing evidence on the documents. At the enquiry the workman was given sufficient opportunity to cross-examine the management witnesses and to examine his witness. The enquiry was conducted strictly adhering to the principles of natural justice. On the basis of the evidence at the enquiry the enquiry officer found the workman guilty of the misconducts alleged against him. The findings of the enquiry officer is based on the evidence at the enquiry and are not perverse in any manner. It is submitted that the enquiry is proper and valid. In any event if it is found that the enquiry is found to be defective or not proper the Management may be given opportunity to justify the disciplinary action and punishment given to the workman by adducing evidence before this court without prejudice to the contention submitted by the Management that the enquiry is valid and proper and there was no violation of any principle of natural justice.

The misconducts proved against the workman are of very grave and serious nature and the management have lost trust in him. The management having lost confidence in the workman and the misconduct proved against the workman being of very serious nature the punishment of dismissal imposed on the workman is not harsh or disproportionate in any manner. It is therefore prayed that the claim of the workman may be dismissed as not maintainable upholding the contention of the management.

IV. The evidence in this case consists of the testimony of MW1 and Ext. M1 series M1(a) to M1(s) series and Ext. M2. On the side of the management and Exts. W1 to W4 on the side of the workman.

V. The points that arise for consideration are :

1. Whether the enquiry conducted to the management is proper and valid and that whether the findings entered into by the enquiry officer are supported by legal evidence ?
2. The propriety and justifiability of the punishment of dismissal imposed on the delinquent workman who have committed the misconducts ?
3. Reliefs ?

VI. Preliminary order was passed on 7-12-2004 finding that the enquiry officer has complied all the principles of natural justice and the enquiry is not vitiated and that the enquiry is proper and valid and the findings of the enquiry officer are based on the evidence on record. I shall here extract that order in full to avoid repetition.

“PRELIMINARY ORDER

The point to be considered is that whether the enquiry conducted by the management is proper and valid. The charge levelled against the workman Sri S. Nandakumaran by the management is as follows :

“While you were attached to our Thrissur Round South Branch as Clerk you have misappropriated a sum of Rs. 45,835.18 (Rupees Forty six thousand eight hundred thirty five and paise eighteen) and committed Fraud/Forgery by manipulations in Savings Bank accounts and Deposit at call account. You have also tampered/destroyed the Bank's records so as to conceal the evidences of the fraud/forgery under the pretense of helping your co-workers in completing their work and tallying accounts you acquired access to the books of account of sections not allotted to you. Several bogus deposit/withdrawal entries with/without supporting vouchers are seen made by you unauthorisedly in various accounts with fraudulent intention. Details of the Fraud/Forgery/ Manipulations committed by you in different accounts are given below :

1. Savings Bank Account No. 5690 in the name of Smt. Sarojini Amma you have made the following fraudulent withdrawals totalling to Rs. 29,450/- from this account forging the signature of the account holder.

Withdrawal of Rs. 1,500/- on 7-1-89 by way of Cheque leaf (No. 244545) out of the balance amount of Rs. 1,583.13 in the account.

2. Withdrawal of Rs. 2,500/- on 19-2-90 by using cheque leaf (No. 554851) since the actual balance in the account was insufficient you had with fraudulent intention manipulated the balance by making bogus deposit entry of Rs. 2,500/- dated 8-2-90. Corresponding bogus withdrawal entry of Rs. 2,600/- dated 8-2-90 was made by you in the S.B. Account

No. 5664 of Smt. Kochumary Anto so as to conceal the effect of the bogus deposit entry. This bogus entry was later struck off by you.

3. Withdrawal of Rs. 2,700/- on 20-6-90 using cheque leaf (No. 554854). Actually there was no balance available in the account. But you manipulated the balance by making a bogus deposit entry of Rs. 3,000/- dated 20-6-90. Corresponding bogus withdrawal entry dated 28-6-90 was made by you in the S.B. Account No. 5648 of Dr. K.K. Rahulan so as to conceal the effect of the bogus deposit entry.
4. Withdrawal of Rs. 350/- on 7-7-90 by way of cheque leaf (No. 554855) balance was made available in the account by the bogus deposit entry of Rs. 3,000/- dated 20-6-90 mentioned under clause 3 above.
5. Withdrawal of Rs. 1,250/- on 6-8-90 using cheque leaf (No. 554856). Actually balance was not available in the account for making this withdrawal. But you manipulated the balance by taking a bogus deposit entry of Rs. 4,500/- dated 25-7-90. Corresponding bogus withdrawal entry of Rs. 4,500/- dated 25-7-90 was made in the SB A/c No. 5664 of Smt. Kochumary Anto so as to conceal the effect of the bogus deposit entry.
6. Withdrawal of Rs. 2,500/- on 10-8-90 by using cheque leaf (No. 554857). Balance was made available for this withdrawal fraudulently by the bogus deposit entry of Rs. 4,500/- dated 25-7-90 stated under clause 5 above.
7. Withdrawal of Rs. 750/- on 14-8-90 by using cheque leaf (No. 554858). Balance was made available for this withdrawal fraudulently by the bogus deposit entry of Rs. 4,500/- dated 25-7-90 stated under clause 5 above.
8. Withdrawal of Rs. 2,400/- on 31-8-90 using cheque leaf (No. 554859). Balance was not available in the account for making this withdrawal. But manipulations were made by you by making bogus deposit entry of Rs. 10,750/- of August, 1990 (Specific date not put by you).
9. Withdrawal of Rs. 1,000/- on 1-9-90 using cheque leaf (No. 554860). Balance was made available for this withdrawal fraudulently by bogus deposit entry of Rs. 10,750/- of August, 1990 mentioned under clause 8 above.
10. Withdrawal of Rs. 1,750/- on 6-9-90 using cheque leaf (No. 697181). Balance was made available for this withdrawal fraudulently by bogus deposit entry of Rs. 10,750/- of August, 1990 mentioned under clause 8 above.
11. Withdrawal of Rs. 2,000/- on 11-9-90 by using cheque leaf (No. 697182). Balance was made available for this withdrawal fraudulently by the bogus deposit entry of Rs. 10,750/- of August, 1990 mentioned under clause 8 above.
12. Withdrawal of Rs. 500/- on 15-9-90 using cheque leaf (No. 697184). Balance was made available for this withdrawal fraudulently by the bogus deposit entry of Rs. 10,750/- of August, 1990 mentioned under clause 8 above.
13. Withdrawal of Rs. 2,500/- on 22-9-90 using cheque leaf (No. 697185). Balance was made available in the account by the bogus deposit entry of Rs. 10,750/- of August, 1990 mentioned under clause 8 above.
14. Withdrawal of Rs. 3,000/- on 26-9-90 using cheque leaf (No. 697186). Balance was not really available in the account. But you manipulated the balance by making a bogus deposit entry of Rs. 10,100/- dated August, 1990 (specific date not put by you).
15. Withdrawal of Rs. 4,000/- on 6-10-90 using cheque leaf (No. 697187). Balance was made available for this withdrawal fraudulently by the bogus deposit entry of Rs. 10,100/- of August, 1990 mentioned under clause 14 above.
16. Withdrawal of Rs. 750/- on 8-10-90 by using cheque leaf (No. 697188). Balance was made available fraudulently by the bogus deposit entry of Rs. 10,100/- dated August, 1990 mentioned under clause 14 above.

In addition you have made a bogus withdrawal entry of Rs. 20,850/- dated 24-10-90 in this account so as to conceal the effect of bogus deposit entries of Rs. 10,750/- dated August 1990 and Rs. 10,100/- dated August, 1990 made by you in this account and mentioned in clauses 8 and 14 above.

You have also made two remittances into this account totalling to Rs. 20,700/- by cash (Rs. 2,700/- on 19-3-90 and Rs. 18,000/- on 23-10-90).

You have surreptitiously removed Page No. 254 and 255 of the S.B. Ledger No. 42 in which transactions of the above account were recorded. You have also removed page No. 191, 192, 209, 210, 335, 336, 347, 373 and 374 from the Saving Bank Subsidiary Registrar intentionally to conceal evidence relating to bogus/unauthorised/fraudulent entries. When balancing were allotted to other employees the balances in the account were suitably corrected by you so as to fraudulently make it agree with the progressive balance book. But you in the balancing was allotted to you manipulations were made by you in the balance book/sheets. The amount misappropriated by you from this account is Rs. 29,450/-.

2. S.B. A/c No. 6861 of Sri. Vidyasagar

You have made a bogus deposit entry of Rs. 13,000/- dated 23-5-90. No cash was remitted by any one though shown as remittance by cash. On that basis

the account holder has withdrawn the amount by means of Cheques. A bogus withdrawal entry of Rs. 13,000 dated 16-8-90 under Cheque No. 309 was made by you with fraudulent intention to offset the effect of the deposit entry dated 23-5-90. This entry was later struck off by you. Another bogus withdrawal entry of Rs. 13,000 dated 24-9-90 was made by you. This entry was later struck off by you. A deposit entry of Rs. 13,000 dated 12-10-90 was made by you transferring from Deposit at call account by preparing credit voucher and passing the voucher for credit of account by forging the initials of the Branch Accountant. Subsequently a bogus withdrawal entry dated 15-10-90 for Rs. 13,000 was made by you in this account.

3. S.B. A/c No. 6341 of Smt. C. Indira

You made a bogus deposit entry of Rs. 4,600 dated 27-4-89 in this account. This entry was later struck off by you. Subsequently another bogus deposit entry of Rs. 5,700 dated 6-10-89 was made by you and later struck off by you. Another bogus deposit entry of Rs. 2,000 dated 25-11-89 was made by you and the account holder made a withdrawal of Rs. 2000 on 27-11-89. Another bogus deposit entry of Rs. 3,000 dated 29-1-90 was made by you and later struck off by you. Subsequently you have made a deposit entry in this account on 12-10-90 by transferring Rs. 4,385.18 from the deposit at call account by preparing credit voucher and passing the credit to this account by forging the initials of the Branch Accountant.

4. S.B. A/c No. 5664 of Smt. Kochumary Amto

You have made bogus withdrawal entry of Rs. 2,600/- dated 8-2-90 in this account under Cheque No. 804 so as to offset the effect of bogus deposit entry dated 8-2-90 made in the S.B. Account of Smt. Sarojini Amma. This entry was later struck off and correct balance cost by you. This entry was made again and scored off afterwards. Another bogus withdrawal entry of Rs. 4,500/- was made by you on 25-7-90 under the same cheque No. 804 so as to offset the effect of bogus deposit entry dated 25-7-90 made by you in the S. B. Account of Smt. C. Sarojini Amma.

5. S.B. A/c No. 5648 of Dr. K. K. Bahulan

You have made one bogus withdrawal entry of Rs. 3,000/- on 23-6-90 in this account showing Cheque No. 302. This is against a bogus deposit entry dated 20-6-90 in the S. B. A/C 5680 of Smt. C. Sarojini Amma.

6. S.B. A/C 6793 of C.S. Prasanth

You have made bogus withdrawal entry of Rs. 13,000/- in this account on 7-7-90 to offset the effect of the bogus deposit entry made by you in the S. B. A/c. No. 6861 of Sri. Vidyasagar on 23-5-90. The entry has been later struck off by you.

7. S.B. A/c No. 5616 of Sri. Gopala Menon

You have made a bogus deposit entry of Rs. 2,890 dated 24-1-90 in the S. B. A/c of Sri. Gopala

Menon thereby inflating the balance from Rs. 1,110 to Rs. 3,990. The entry was later struck off by you.

8. Deposit at Call Account.—

The Following entries were outstanding in the Deposit at Call A/c.—

Date of Entry	FDR No.	Amount Rs.
26-09-89	173/86	2,959.36
26-09-89	9/87	1,278.45
26-09-89	116/86	13,147.37
		17,335.18

At the time of Carrying over of the outstanding entries in the new register individually, the total amount of the above three items was clubed and shown as a single item therein. Deposit at call account debit voucher for Rs. 17,385.18 was prepared by you on 12-10-90 by using Term Deposit receipt form No. 118745 surreptitiously removed by you from the receipt book in use at the branch. The voucher was unauthorisedly passed for credit of S. B. A/cs by forging the signature of the Branch Accountant. Credit vouchers were made by you for Rs. 13,000/- favouring S.B. account No. 6861 in the name of Sri. C. Vidyasagar and for Rs. 4,385.18 favouring S.B. Account No. 6341 in the name of Sri. C. Indira by forging the initials of the Branch Accountant. The debit voucher was destroyed by you after the clean cash book was tallied. Thus you have misappropriated Rs. 17,385.18 from this Account. Folios 115 and 116 of the old Deposit at call register and folios 115 and 116 of the old deposit at Call Register and Folios 3 and 4 of New Deposit at call register were destroyed by you. Your above actions would show that you have violated the following provisions of the First Bipartite Settlement 1966 for reasons noted there against.

Para 19-5.(d).— : Wilful damage or attempt to cause damage to the property of the Bank or any of its customers.

Para 19.5(J).— : Doing any act prejudicial to the interest of the Bank or gross negligence or negligence involving or likely to involve the Bank in Serious loss”

The management appointed the enquiry officer to conduct the enquiry regarding the charges levelled against the delinquent workman. According to the management the enquiry conducted by the enquiry officer is proper and valid. But the workman's contention is that the enquiry is not proper and valid. And hence the enquiry report is to be set aside.

3. The Enquiry Officer was examined as MW1 and Marked M1 enquiry file. M1(a), M1(b), M1 (c), Series (18 in Number) and Ext. M1. M1(b) Ext. M1(i) Series are Ext. P1 to P7, P14, P34, P43, P44 and Ext. M1 (m) to M1 (s) are Exts. D1 to D7 marked in the enquiry, the workman has not adduced any oral

evidence in this case. But W1 to W4 were marked in this case for the workman.

4. Enquiry was conducted by the Enquiry Officer who was examined as MW1 before this court. The evidence of MW1, Ext. M1 file would show that the workman was allowed to represent in the enquiry by the union representative of his choice. The enquiry commenced on 10-2-92 and closed on 15-3-1994. The workman and his representative fully participated in the enquiry. The enquiry was adjourned on several occasions at the request of the workman. At the enquiry held on 21-11-92 the enquiry officer read out the charges referred to the charge memo dated 19-4-1991. The workman denied the charges. On that day the presenting officer of the management submitted the list of witness of the management and the list of documents required to establish the charges levelled against the workman. Before commencing the evidence, documents relied on by the management were made available to the workman and its representative for inspection. The workman also filed his documents on 25-8-1993. Exts. P1 to P49 were marked on the side of the management and 8 witnesses were examined on the side of the management. Exts. D1 to D7 were marked on the side of the workman. Workman has not adduced any oral evidence. On 15-2-1994 the workers representative submitted before the enquiry officer that he has no witnesses to be examined. At the close of the enquiry both the workman and his representatives and the presenting officer for management were given opportunity to submit their argument note. The workman's representative and the presenting officer of the management submitted argument notes before the enquiry officer. Thereafter considering the argument of both side the enquiry officer submitted his enquiry report regarding his findings to the management.

5. The learned counsel for the workman would argue that the enquiry file in its entirety is not before this court and therefore the enquiry is vitiated. The learned counsel for the management replied that infact the management produced enquiry file before this court with the list of documents containing 29 items and copies were served to the counsel for the workman. The learned counsel for the management would argue that the workman did not have a case that any of the documents listed in the list of documents of the management was not furnished to him, till the case was taken up for examination of the enquiry officer. Only in the first week of January 2004, the counsel for the workman submitted that he was not furnished with the copies of the proceedings of the enquiry and that were served to him on 16-1-2004. Even at that time (16-1-2004), he has not made any submission with regard to note furnishing of any other document listed in the list of documents dated 30-3-2001. So the argument of the learned counsel for the workman that the enquiry file in its entirety is not before this court and therefore the enquiry is vitiated is not sustainable. When the case was posted for examination of enquiry officer on 9-12-2003 it was found that enquiry file was missing. So the

case was adjourned. Thereafter the enquiry file was traced out but some of the documents produced were seen missing. So the management produced the photo copies of the documents on 9-2-2004. Those documents are identified and marked through the enquiry officer. The learned counsel for the management would argue that it was again noticed that 18 documents that is Exts. P1 to P7, Exts. P14, P34, P43 and P44 and Exts. D1 to D7 were found missing. So the management produced the photo copies of the same on 10-3-2004 and they were marked as Ext. M1 (b) to M1(a) which were idnetified and marked through the enquiry officer and he was not denied advantage of the above facts against the management. The learned counsel for the workman submitted that the management's counsel conceded the non-production of enquiry file in its entirety on 6-3-03 that the management's counsel sought time for producing the remaining documents in the enquiry. The learned counsel for the management submitted that Ext. M1 file produced on 9-2-2004 were not the remaining documents but the documents produced and listed in the list of documents dated 30-3-2001 and copies of which were given to the counsel for the workman. He also would argue that on 20-1-2004, he sought time for producing the missing documents from the enquiry file produced by the management before court and not the remaining documents as alleged by the counsel for the workman. The learned counsel for the workman would argue that MW1 is able to authenticate Ext. M1 file, Ext. M1(a), Ext. M1(b), M1 (s) and Ext. M2 file. The counsel for the management opposed the argument of the learned counsel for the workman as it is against the evidence. MW1 enquiry officer has deposed that copies of all the documents produced by managements during the enquiry proceedings were served to the workman and that he has filed the enquiry report. The file containing copy of enquiry report the documents, copies of the documents and proceedings produced and they are marked as M1, M1(a). As some of the documents were found missing the management produced the photo copies of the documents and they are marked as M1(b) to (s) series (18 in nos). M1 (b) to (s) series are Exts. P1 to P7 and P14, P34, P43 P44 and Exts. D1 to D7 marked in the enquiry. The enquiry officer is the competent person to prove the above documents which are marked in the enquiry proceedings. Ext. M2 is the photo copy of the reconstructed accounts of Sarojini Amma. MW1 has also deposed that the copy of that documents was also served to the workman during the enquiry and all these documents were considered in the enquiry proceedings. The enquiry officer has proved and identified the documents. The learned counsel for the workman would argue that non-examination of the person who have taken the photo copies vitiated the enquiry. In the proceedings before the Labour Court and Industrial Tribunals strict proof of documents in accordance with the provisions of I.D. is not required. This is settled by the decision of Honourable Supreme court in Sindu, Resettlement Corporation Ltd., Vs. Industrial Tribunal, Gujarat and others reported in 1968 (1) L.L.J. 834. The

enquiry officer is the competent person to identify and acknowledge the validity of the photo copies of the documents. Moreover the workman has no case that those photo copies are not copies of the original documents marked in the enquiry. Nor the workman has any case that the management made any manipulations in the photo copies. The workman has also no case that the management produced any new documents.

6. The learned counsel for the workman would argue that the management has conducted the enquiry in violation of clause 19(iv) of the First Bipartite Settlement for the reason that the chargesheet was issued before the lapse of one year from the date of commission of offence. The learned counsel for the management would argue that mere issue of charge does not imply the initiation of disciplinary proceedings. Moreover the workman has not raised any plea or protest regarding the violation of Clause 19(iv) of the first Bipartite Settlement in the enquiry. First Bipartite Settlement 1996 clause 19(iv) of the First Bipartite Settlement 1996 is reproduced as follows :

“If after steps have been taken to prosecute an employee or to get him prosecuted, for an offence, he is not put on trial within a year of the commission of the offence, the management may then deal with him as if he had committed an act of gross misconduct or of minor misconduct, as defined below, provided that if the authority which was to start prosecution proceedings refuses to do so or come to the conclusion that there is no case for prosecution it shall be open to the management to proceed against the employee under the provisions set out below in Clause 19.11 and 19.12 infra relating to discharge, but he shall be deemed to have been on duty during the period of suspension, if any and shall be entitled to the full wages and allowances and to all other privileges for such period in the event of the management deciding, after enquiry, not to continue him in service, he shall be liable only for termination with three month's and allowances in lieu of notice as provided in Clause 19.3 supra.”

As per the above clause if steps have been taken to prosecute an employee of the bank for an offence and he is not put on trial within a year of the commission of the offence, the management can deal with him as he has committed the misconduct as defined in the Bipartite Settlement. In this case the date of commission of offence was on 24-10-91 and the complaint was lodged by the bank on 25-3-1991. The one year period of the commission of offence contemplated in 19(iv) of the Bipartite Settlement expired on 25-10-1991. The enquiry into the charges levelled against the workman was delayed for commission of one year from the date of commission of offences and the enquiry proceedings commenced only on 10-2-1992. Therefore I find that there is no violation of Clause 19(iv) of the Bipartite Settlement is conducted by the counsel for the workman.

7. The learned counsel for the workman would argue that the enquiry has vitiated for infraction of the rules against bias and thereby the principles of natural justice as much as subject enquiry was held by an officer who is

subordinate and junior to superior officer who has conducted the preliminary investigation. He had cited a decision in a case reported in 1992 (ii) LLJ in page 3 in supported his argument. The learned counsel for the management would argue that the enquiry officer was never subordinate officer to the officer who conducted the preliminary investigation and he had not worked under him. The officer who conducted preliminary investigation is not superior to the enquiry officer and the enquiry officer has not subordinate to the person who conducted the preliminary investigation. The enquiry officer had never worked under the officer who conducted the preliminary investigation. The officer who conducted the preliminary investigation has not comes in evidence against the workman in the enquiry and he has not examined as witness in the enquiry. In the above cited decision the person who gave the complaint and person who gave the evidence against the delinquent employee was an officer superior to the enquiry officer. So the decision cited above is not applicable to the present case. Moreover in the above cited case the delinquent employee was an employee of Andhra Pradesh State Road Transport Corporation to which Statutory Rules applied and Industrial disputes Act not applicable.

8. The learned counsel for the workman also submitted that MW1 has deposed that Ext. P8, P15 to P31 and P32 to P41 are photo copies. The evidence on record will show that out of Ext. P32 to P41, only P38, P40, P41 are attested copies. The management's case is that Ext. P15 to P31 are with the police in connection with the criminal case. Ext. P32 is the acknowledgement of the S.I. of police cirme branch, Trichur who has attested Ext. P15 to P31 photo copies. MW1 has deposed as follows “original

Disposition is in Regional Language

The learned counsel for the workman also would argue that several documents available in the exclusive custody of the management were declined from being produced in the enquiry and declined from being available to the workman for verification and hence the enquiry is vitiated. The learned counsel for the management would argue that in Ext. W2 letter dated 11-1-93 the workman sought for perusal of production of certain documents and the management has denied production and perusal of some of the documents that is item No. 1 & 2 for valid reasons and this is evident from the proceedings held on 18-1-1993. In the proceedings held on 18-1-1993 the defence representative was granted time and permission by the enquiry officer to verify 5 documents listed in Ext. W2 and he was directed to inform the enquiry officer when the verification was offered. Ext. W2 at page 2 the workman sought for the verification and production of replies received from Vidhyasagar and Mrs. Indira. The reply from Vidhyasagar was handed from defence representative on 24-11-93. Since the letter issued to Mrs. Indira returned unserved, there was no reply from her and hence it could not be given to the workman. During the sitting held on

4-12-1993 of the enquiry, the list of documents submitted by the workman dated 25-8-93 was discussed in the enquiry report. The learned counsel for the management submitted that the non-production of the said list of documents of the workman in the Ext. M1 enquiry File is not material as of those documents are listed and reported in enquiry report at pages 13 & 14. In that list the workman wanted to produce 10 items of documents, in which item Nos. 5 to 9 were rightly denied as evident from page 2 of the enquiry proceedings dated 14-12-1993. In the circumstance and from the above discussion, I find that the enquiry officer has complied all the principles of natural justice and the enquiry is not vitiated and that the enquiry is proper and valid and the findings of the enquiry officer are based on the evidence on record."

VII. The point remains to be adjudicated is regarding the propriety and justifiability of the punishment of dismissal imposed on the delinquent workman who committed the misconduct and what relief if any the delinquent workman is entitled to? The learned counsel for the workman would argue that the original documents are before the criminal Court and only photo copies are before this court and considering the grave nature of the charges the original documents are necessary in this case for the determination of the propriety and justifiability of the punishment of dismissal imposed on the delinquent workman. The documents were marked in evidence and the workman has no objection regarding the marking of the documents and accepting the same in evidence. The learned counsel for the workman would argue that in the criminal case the workman is acquitted by the court as per Ext. W1 judgment and therefore the workman may be exonerated from this case. The acquittal of the criminal case is not materially in the disciplinary action proceedings against the workman. Moreover, the criminal court has not found that this is a totally false case. MW1 Branch Manager of the management Bank examined as PW1 in the criminal case. Para 8 of the Ext. W1 judgment reads as follows:— "PW1 would candidly admitted that he did not verify the account of the Sarojini Amma. There was no complaints from Sarojini Amma to the bank. Vidhyadharan, Rahulan, Indra and Prasanth have also did not have any complaint before the bank with regard to any misappropriation. Kochumary Anto another account holder also did not make any complaint. In fact it was those persons who were supposed to be the aggrieved persons. They did not make any complaints at all. In the circumstance the prosecution should have clinchingly proved that there was falsification of accounts and that it was made by the accused and none other than him. The fact that the accused was asked to deposit an amount of Rs. 25000/- towards sundry deposit will not be a circumstance to prove the complicity of the accused in this case. PW1 would candidly admit that he did not make any personal verification with regard to the allegations of malpractice in the accounts. Further the accused was not in charge of S.B. account section. He was in charge of fixed deposit section and therefore, it would not have been possible for him to effect unauthorised entries and withdraw the amount from the bank without the connivance of the concerned staff in charge of S.B. account section."

VIII. In criminal case the prosecution has to prove its case beyond reasonable doubt. Whereas in the civil case preponderance of probability is sufficient to prove its case. In the disciplinary action if the enquiry is found proper and valid and that the findings of the enquiry officer are based on evidence on record, the delinquent workman is liable to be punished for the charge. The learned counsel for the workman would argue that memos issued to other employer of the bank also, but none were proceeded other than the delinquent workman. Of course as the management had issued memos to other employees then why did the management not proceed against those employees is a suspicious circumstance against the management. But as the charge against delinquent workman is proved in the enquiry held, he cannot plead that he be exonerated from the charge on the ground that the management has not proceeded other employees against whom the management issued memos. The learned counsel for the workman also would argue that without the participation of the other employees in the management bank, the workman alone could not commit the alleged malpractice. There is also some substance in the above argument of the learned counsel for the workman. But that is not a sufficient ground not to impose any punishment to the workman. The learned counsel for the management would argue that the court may not order to reinstate the workman in service as the management has lost confidence on him. The workman is an employee of the bank dealing with public money and he should be honest and diligent. The workman has several years experience as an employee in the management bank. There is no past adverse remarks and antecedents against the workman. Considering all the facts and circumstances of the case I am of the view that the order of dismissal of the workman from the service of the management is to be converted into as discharge.

In the result, an award is passed holding that the order of disqualification of the workman Sri A. Nandakumar from service of the management bank is converted into as discharge from service and that he is entitled to all the retirement benefits.

Dictated to the Confidential Assistant, transcribed and typed out by her, corrected by me and passed this the 31st day of January, 2005.

Emakulam. K.K. UTHARAN, Presiding Officer.

APPENDIX

Witness Examined on the side of the Management :

MW1 - Sri. Madhavankutty.

Witness Examined on the side of the workman :—Nil

Exhibits marked on the side of the Management :—

Ext. M1 - Enquiry file.

Ext. M1(a) - Photo copy of office order dated 3-8-93.

Ext. M1(b) - Photo copy of attendance Register (Round south) for the period 7-2-90 to 31-12-90.

Ext. M1(c) - Attendance Register (Kunnankulam) for the period 10-12-90 to 31-12-90.

Ext. M1(d) - Photo copy of balance sheet regarding page (62, 63, 64 & 65)

Ext. M1(e) - Photo copy of current account subsidiary dated 12-10-90 (page 262, 263 & 264)

Ext. M1(f) - Photo copy of Savings Bank subsidiary.

Ext. M1(g) - Photo copy of cheque Books issued Register dated 8-12-90 Page No. (181), dated 25-7-90 (Page 333)

Ext. M1(h) - Photo copy of trunk call outward register (page No. 30 & 31)

Ext. M1(i) - Photo copy of transfer scroll dated 12-10-90 (Page 122 and 123)

Ext. M1(j) - Photo copy of letter No. RMI/CLT dated 26-12-90 served on CSE suspending from service.

Ext. M1(k) - Photo copy of Ledger No. 42.

Ext. M1(l) - Photo copy of Ledger Saving Bank Ledger No. B6 & B3.

Ext. M1(m) - Photo copy of attendance register from 7-1-89 to 25-11-89.

Ext. M1(n) - Photo copy of reply received from Sri. C. Vidhyasagar.

Ext. M1(o) - Photo copy of letter dated 21-1-91 from Sri A. Nandakumaran.

Ext. M1(p) - Photo copy of subsidiary register containing the accounts of Smt. Indira and Shri C.S. Prasanth (relevant page of Savings Bank Account)

Ext. M1(q) - Photo copy of subsidiary register in respect of entries dated 23-5-90 for Rs. 13000/- in the account of Sri. Vidyasagar.

Ext. M1(r) - Photo copy of subsidiary Register for S. B. Account No. 6341 relating to the account of Smt. Indira for the period from 27-4-89 to 29-1-90.

Ext. M1(s) - Photo copy of subsidiary register contained the entries in the Account of Smt. Indira on 6-10-89, 25-11-89, 27-11-89 and 29-1-90.

Ext. M2 - Photo copy reconstructed account of Smt. Sarojini Amma

Exhibits marked on the side of the workman :—

Ext. W1 - Photo copy of judgment of 1st Class Magistrate, Thrissur dated 31-7-2000.

Ext. W2 - Letter dated 11-1-93 by the enquiry officer to the workman.

Ext. W3 - Copy of letter dated 21-8-92 by the workman to the enquiry officer.

Ext. W4 - Copy of letter dated 6-2-92 by the workman to the enquiry officer.